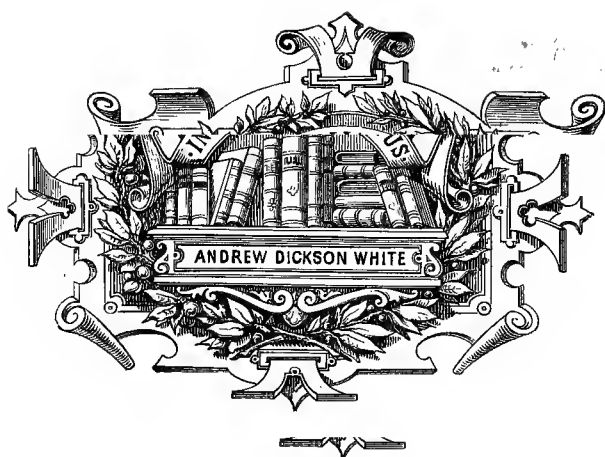
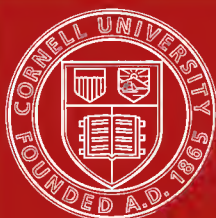


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THE
BANCROFT
NATURALIZATION TREATIES

WITH THE
GERMAN STATES;

THE
UNITED STATES' CONSTITUTION

AND THE
RIGHTS AND PRIVILEGES OF CITIZENS OF FOREIGN BIRTH.

BEING
A COLLECTION OF DOCUMENTS AND OPINIONS RELATING TO THE
SUBJECT, TO THE ENCROACHMENT OF THE NORTH-GERMAN TREATY
ON OUR CIVIL RIGHTS, AND THE MEASURES TO REBUT IT.

AN APPEAL
TO THE GERMAN-AMERICAN CITIZENS, TO THE GOVERNMENT, CONGRESS, COURT
OF CLAIMS, AND THE PEOPLE OF THE UNITED STATES AT LARGE.

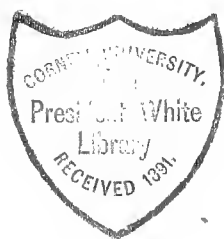
BY
CHARLES MUNDE,
AN ADOPTED CITIZEN OF THE UNITED STATES.

WÜRZBURG.
SOLD BY A. STUBER.

NEW YORK, PHILADELPHIA, ST. LOUIS,
BY WILLIAM RADDE. BY SCHÆFER & CORRADI. BY C. B. WITTER.

1868.
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PRINTED BY F. E. THEIN AT WÜRZBURG.

P R E F A C E.

What is every body's business is nobody's business. Therefore, not from a sense of particular fitness for the purpose, I have taken a matter in hand which concerns all naturalized American citizens of German birth, and more particularly those who reside in the territory of the North German Confederation.

By Mr. Bancroft's treaty with the latter, or rather by the fourth article of the same, our civil rights have been eneroached upon, and the protection law, passed by Congress on the 25th of July, rectifies the mistake only with regard to our home government, but not with the government of North Germany, which, of course, knows no other law in reference to us than their own, and the letter of the treaty made with the United States. The two laws conflicting, all sort of trouble may be in store for us and our Government, unless something have been done quite recently by the North-German minister at Washington in consequence of the instructions received from Berlin on the 26th of August last, as I have reported page 116.

Under the circumstances, I urge upon my fellow-citizens the necessity of forming clubs all over Germany for mutual information and support. There are questions, and there may be in future, which single individuals will find it difficult to get answered satisfactorily, but which the weight of many may bring to a proper solution. We have all leisure and means enough, to allow us to contribute a trifling share towards the protection of our privileges.

I have learned, during my short stay in this place that there exists, in all the Prussian provinces, arbitrary taxation of foreigners, including American citizens, taxed at home. Applications to our consuls, and to our minister at Berlin, have had no result. And yet Mr. Bancroft intended to make his protection of his fellow-citizens depending on their paying taxes at home! — Similar and other questions may arise, the solutions of which ought to be known to every one of us by a cheap periodical published at our common expense, and with the assistance of those concerned.

Till the formation of societies can be realized and an abler pen than mine be found, I shall be glad to receive any communications, at Würzburg, Bavaria, and use them for our common interests.

Wiesbaden, Sept. 19th, 1868.

C. M.

E R R A T A.

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I.
THE NATURALISATION TREATY

BETWEEN

THE UNITED STATES AND THE NORTH GERMAN GOVERNMENT
BEFORE THE DIET OF THE NORTH GERMAN CONFEDERATION.

Reichstag des Norddeutschen Bundes.

Actenstück Nro. 8.

Berlin den 24. März 1868.

Im Namen des Präsidiums des norddeutschen Bundes beehrt sich der unterzeichnete Bundeskanzler, den am 22. Februar c. in Berlin unterzeichneten

Vertrag zwischen dem Norddeutschen Bunde und den Vereinigten Staaten von Amerika, betreffend die Staats-Angehörigkeit derjenigen Personen, welche aus dem Gebiete des einen Theils in das des andern einwandern,

nachdem der Bundesrath demselben seine Zustimmung ertheilt hat, dem Reichstage des Norddeutschen Bundes zur verfassungsmässigen Genehmigung ganz ergebenst vorzulegen.

Ein diesen Vertrag motivirender Bericht der Ausschüsse des Bundes-Rathes für das Landheer und die Festungen und für Justizwesen ist ganz ergebenst beigelegt.

v. Bismarck.

An

den Reichstag des Norddeutschen Bundes.

Seine Majestät der König von Preussen, im Namen des Norddeutschen Bundes, und der Präsident der Vereinigten Staaten von Amerika, von dem Wunsche geleitet,

His Majesty the King of Prussia in the name of the North German Confederation and the President of the United States of America, led by the wish to regulate the

die Staats-Angehörigkeit derjenigen Personen zu regeln, welche aus dem Norddeutschen Bunde in die Vereinigten Staaten von Amerika und aus den Vereinigten Staaten von Amerika in das Gebiet des Norddeutschen Bundes einwandern, haben beschlossen, über diesen Gegenstand zu unterhandeln, und zu diesem Behufe Bevollmächtigte ernannt, um eine Uebereinkunft abzuschliessen, nämlich

Seine Majestät der König von Preussen:

Allerhöchstihren Geheimen
Legations - Rath *Bernhard
König*

und

*der Präsident der Vereinigten
Staaten von Amerika:*

den ausserordentlichen Ge-
sandten und bevollmächtig-
ten Minister *Georg Bancroft*,

welche die folgenden Artikel vereinbart und unterzeichnet haben.

Artikel 1.

Angehörige des Norddeutschen Bundes, welche naturalisirte Staats-Angehörige der Vereinigten Staaten von Amerika geworden sind und fünf Jahre lang ununterbrochen in den Vereinigten Staaten zugebracht haben, sollen von dem Norddeutschen Bunde als Amerikani-sche Angehörige erachtet und als solche behandelt werden.

Ebenso sollen Staats - Angehörige der Vereinigten Staaten von

citizenship of those persons who emigrate from the North German Confederation to the United States of America and from the United States of America to the territory of the North German Confederation, have resolved to treat on this subject and have for that purpose appointed plenipotentiaries to conclude a convention, that is to say:

His Majesty the king of Prussia:
Bernhard König, Privy Coun-
cillor of Legation,

and

*The President of the United States
of America:*

George Bancroft, Envoy Ex-
traordinary and Minister Pleni-
potentiary from the said States,
near the king of Prussia and the
North German Confederation,

who have agreed to and signed the following articles:

Article 1.

Citizens of the North German Confederation who become naturalized citizens of the United States of America and shall have resided uninterruptedly within the United States five years shall be held by the North German Confederation to be American citizens and shall be treated as such.

Reciprocally: citizens of the United States of America who become naturalized citizens of the

Amerika, welche naturalisirte Angehörige des Norddeutschen Bundes geworden sind und fünf Jahre lang in Norddeutschland zugebracht haben, von den Vereinigten Staaten als Angehörige des Norddeutschen Bundes erachtet und als solche behandelt werden.

Die blosse Erklärung der Absicht, Staats-Angehöriger des einen oder des andern Theils werden zu wollen, soll in Beziehung auf keinen der beiden Theile die Wirkung der Naturalisation haben.

Artikel 2.

Ein naturalisirter Angehöriger des einen Theils soll bei etwaiger Rückkehr in das Gebiet des andern Theils wegen einer, nach den dortigen Gesetzen mit Strafe bedrohten Handlung, welche er vor seiner Auswanderung verübt hat, zur Untersuchung und Strafe gezogen werden können, sofern nicht nach den bezüglichen Gesetzen seines ursprünglichen Vaterlandes Verjährung eingetreten ist.

Artikel 3.

Der Vertrag zwischen den Vereinigten Staaten von Amerika einerseits und Preussen und andern deutschen Staaten andererseits, wegen der in gewissen Fällen zu gewährenden Auslieferung der vor der Justiz flüchtigen Verbrecher, welcher am 16. Juni 1852 abgeschlossen worden ist, wird hiermit auf alle Staaten des Norddeutschen Bundes ausgedehnt.

North German Confederation and shall have resided uninterruptedly within North Germany five years shall be held by the United States to be North German citizens and shall be treated as such.

The declaration of an intention to become a citizen of the one or the other country has not for either party the effect of naturalization.

Article 2.

A naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration; saving always the limitation established by the laws of his original country.

Article 3.

The convention for the mutual delivery of criminals, fugitives from justice, in certain cases, concluded between the United States on the one part and Prussia and the other States of Germany on the other part, the sixteenth day of June one thousand eight hundred and fiftytwo, is hereby extended to all the states of the North German Confederation.

Artikel 4.

Wenn ein in Amerika naturalisirter Deutscher sich wieder in Norddeutschland niederlässt ohne die Absicht, nach Amerika zurückzukehren, so soll er als auf seine Naturalisation in den Vereinigten Staaten Verzicht leistend, erachtet werden.

Ebenso soll ein in dem Norddeutschen Bunde naturalisirter Amerikaner, wenn er sich wieder in den Vereinigten Staaten niederlässt, ohne die Absicht, nach Norddeutschland zurückzukehren, als auf seine Naturalisation in Norddeutschland Verzicht leistend, erachtet werden.

Der Verzicht auf die Rückkehr kann als vorhanden angesehen werden, wenn der Naturalisirte des einen Theils sich länger als zwei Jahre in dem Gebiete des andern Theils aufhält.

Artikel 5.

Der gegenwärtige Vertrag tritt sofort nach dem Austausch der Ratifikationen in Kraft und hat für zehn Jahre Giltigkeit.

Wenn kein Theil dem andern sechs Monate vor dem Ablauf dieser zehn Jahre Mittheilung von seiner Absicht macht, denselben dann aufzuheben, so soll er ferner in Kraft bleiben bis zum Ablauf von zwölf Monaten, nachdem einer der contrahirenden Theile dem andern von einer solchen Absicht Kenntniss gegeben.

Article 4.

If a German naturalized in America renews his residence in North Germany without the intent to return to America he shall be held to have renounced his naturalization in the United States.

Reciprocally: if an American naturalized in North Germany * renews his residence in the United States without the intent to return to North Germany he shall be held to have renounced his naturalization in North Germany.

The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

Article 5.

The present convention shall go into effect immediately on the exchange of ratifications and shall continue in force for ten years. If neither party shall have given to the other six months previous notice of its intention then to terminate the same, it shall further remain in force until the end of twelve months after either of the high contracting parties shall have given notice to the other of such intention.

* A circumstance which scarcely ever happens. **M.**

Artikel 6.

Der gegenwärtige Vertrag soll ratificirt werden von Seiner Majestät dem Könige von Preussen im Namen des Norddeutschen Bundes und von dem Präsidenten unter und mit Genehmigung des Senats der Vereinigten Staaten, und die Ratificationen sollen zu Berlin innerhalb sechs Monaten vom heutigen Datum ausgewechselt werden.

Zu Urkund dessen haben die Bevollmächtigten diese Uebereinkunft unterzeichnet und besiegelt.

Berlin, den 22. Februar 1868.

gez. BERNHARD KÖNIG.

(L. S.)

gez. GEORGE BANCROFT.

(L. S.)

Article 6.

The present convention shall be ratified by His Majesty the King of Prussia in the name of the North German Confederation and by the President by and with the advice and consent of the Senate of the United States and the ratifications shall be exchanged at Berlin within six months from the date hereof.

In faith whereof the Plenipotentiaries have signed and sealed this convention.

Berlin, the 22nd of February 1868.

sign. GEORGE BANCROFT.

(L. S.)

sign. BERNHARD KÖNIG.

(L. S.)

II.**R E P O R T**

O F

THE UNITED COMMITTEES FOR THE LAND-ARMY AND FORTRESSES
AND FOR THE JUDICIAL DEPARTMENT ON THE TREATY WITH THE
UNITED STATES OF AMERICA CONCERNING THE NATURALIZATION
OF EMIGRANTS, OF FEBRUARY 22^d 1868.

B e r i c h t

der

vereinigten Ausschüsse für das Landheer und die Festungen und
für Justizwesen über den Vertrag mit den Vereinigten Staaten
von Amerika vom 22. Februar 1868 im Betreff der Staats-
Angehörigkeit der Eingewanderten.

(Nro. 1 der Drucksachen.)

Seine Majestät der König von Preussen im Namen des Norddeutschen Bundes und der Präsident der vereinigten Staaten von Amerika haben unterm 22. Februar d. J. durch ihre zu diesem Behufe bestellten

Bevollmächtigten eine Uebereinkunft abgeschlossen, durch welche die Staatsangehörigkeit derjenigen Personen geregelt wird, welche aus dem Norddeutschen Bunde in die Vereinigten Staaten von Amerika und aus den Vereinigten Staaten von Amerika in das Gebiet des Norddeutschen Bundes einwandern.

Nach Art. 4 der Verfassung unterliegen die Bestimmungen über die Heimathsverhältnisse, das Staatsbürgerrecht, die Auswanderung nach ausserdeutschen Ländern, das Strafrecht, der Beaufsichtigung Seitens des Bundes und der Gesetzgebung desselben. Verträge mit fremden Staaten, die sich auf Gegenstände aus dem Bereiche der Bundes-Gesetzgebung beziehen, bedürfen nach Art. 11 zu ihrem Abschlusse der Zustimmung des Bundesrathes und zu ihrer Giltigkeit der Genehmigung des Reichstages.

Den Abschluss des Vertrages hat der Herr Bundeskanzler den Bundes-Regierungen unterm 5. Februar d. J. vorgeschlagen und die Unterzeichnung ist erfolgt, nachdem von keiner Seite Widerspruch erhoben war und unter Berücksichtigung verschiedener Wünsche, welche einzelne Regierungen geäußert hatten.

Gegenwärtig ist der Vertrag zur Ertheilung der förmlichen Zustimmung dem Bundesrathe vorgelegt worden und den vereinigten Ausschüssen für das Landheer und die Festungen und für Justizwesen zur Berichterstattung überwiesen.

Die Kompetenzfrage ist durch das Vorbemerkte erledigt.

Veranlassung zum Abschlusse des Vertrages haben die langjährigen Differenzen gegeben, welche daraus entstanden sind, dass die Regierung der Vereinigten Staaten von Amerika den Grundsatz befolgt, dass der Erwerb des Amerikanischen Bürgerrechts alle aus der früheren Staatsangehörigkeit eines Eingewanderten resultirenden Beziehungen löse, während in verschiedenen Staaten des Norddeutschen Bundes die gesetzliche Bestimmung besteht, dass die Staatsangehörigkeit durch die Abwesenheit gar nicht oder nur unter gewissen Voraussetzungen und nach einer längeren Reihe von Jahren verloren geht, auch wenn der Abwesende inzwischen das Bürgerrecht in einem anderen Staate erworben hat.

Die Regierung der Vereinigten Staaten hält es in Folge ihres Grundsatzes nicht für zulässig, dass Fremde, welche das amerikanische Bürgerrecht erworben haben, bei ihrer Rückkehr in ihr früheres Vaterland noch als Staatsangehörige desselben betrachtet, und zum Militärdienst herangezogen werden, während die Erfüllung der Militär-

pflicht von Seiten solcher Ausgewanderten auf Grund der bestehenden gesetzlichen Bestimmungen in den betreffenden Staaten des Norddeutschen Bundes gefordert werden muss und gefordert ist. Die hieraus entstandenen Conflicte haben mehrfach zu lebhaften Erörterungen geführt, und dadurch hat die Ueberzeugung Raum gewonnen, dass es im allseitigen Interesse begründet sei, die Sache durch eine förmliche Uebereinkunft mit den Vereinigten Staaten zu regeln. Hierauf war um so grösserer Werth zu legen, als in jenen Staaten entschiedene Bestrebungen hervorgetreten sind, die Frist von fünf Jahren abzukürzen, mit deren Ablauf bislang erst die Naturalisation daselbst erlangt werden konnte, — die Regierung der Vereinigten Staaten aber sich bereit zeigte, an der seitherigen Frist dem Königreich Preussen resp. dem Norddeutschen Bunde gegenüber festzuhalten, wenn auf der anderen Seite der Grundsatz Anerkennung finde, dass durch die Naturalisation in Amerika die frühere Staatsangehörigkeit erlösche.

Die gegen eine solche Uebereinkunft etwa aus militärischen Gründen herzuleitenden Bedenken traten vor den Erwägungen zurück, dass kaum zu befürchten steht, es könne die Ergänzung des Heeres durch eine Erleichterung der Auswanderung nach Amerika gefährdet werden, und dass das Fernbleiben von Individuen, die sich ihrem Vaterlande fünf Jahre lang entziehen und sich entnaturalisiren, um der Ableistung der Militärpflicht zu entgehen, nicht als ein Verlust für die Armee anzusehen ist.

Wie hiernach der Abschluss des Vertrages an sich als ein wesentlicher Gewinn zu betrachten ist, so können auch die einzelnen Bestimmungen desselben nur der Zustimmung empfohlen werden.

Artikel 1

spricht den Grundsatz aus, dass der fünfjährige ununterbrochene Aufenthalt in dem Gebiete des einen Theils mit hinzutretender förmlicher Naturalisation die Staatsangehörigkeit für den eingewanderten Angehörigen des andern Theils begründe. Erfordert wird ein ausdrücklicher Naturalisationsact, der durch die vielfach üblich gewesene vor einer Magistratsperson abgegebene blosser Erklärung der Absicht, Staatsangehöriger des einen oder des andern Theils werden zu wollen, nicht ersetzt werden kann.

Die Frage, ob mit und nach der Erwerbung der Staats-Angehörigkeit in dem Gebiete des einen Theils die Staats-Angehörigkeit des Ausgewanderten in dem Gebiete des andern Theils noch fort dauert,

wird durch den Vertrag nicht entschieden und ist nach der inneren Gesetzgebung des betreffenden Landes zu beantworten. Jedenfalls ist der Ausgewanderte aber als fremder Staatsangehöriger und *nur* als solcher *bis dahin* anzusehen, *wo er unter den Modalitäten des Artikels 4 zurückkehrt.*

Artikel 2

bezieht sich auf den Fall, dass ein Ausgewandelter vor der Auswanderung in seinem Heimathstaate Handlungen begangen hat, die nach den Gesetzen dieser Heimath strafbar sind.

Artikel 3

enthält die Ausdehnung des am 16. Juni 1852 zwischen Preussen und einigen andern deutschen Staaten einerseits und den Vereinigten Staaten von Amerika anderseits abgeschlossenen, hier beigefügten Vertrages über die gegenseitige Auslieferung flüchtiger Verbrecher auf alle Staaten des Norddeutschen Bundes, wozu die gegenwärtige Uebereinkunft eine erwünschte Veranlassung und Gelegenheit geboten hat.

Artikel 4 *

giebt dem Grundsatz Ausdruck, dass in dem Gebiete des einen Theils naturalisirte frühere Angehörige des andern Theils nach ihrer Rückkehr in ihr früheres Vaterland nicht mehr unter dem Schutze des Vertrages stehen, wenn sie in der alten Heimath sich wieder dauernd niederlassen. Die Frage über die Staatsangehörigkeit dergestalt Zurückgekehrter ist wieder nach der inneren Gesetzgebung zu entscheiden, durch welche bekanntlich mehrfach die Zulässigkeit eines doppelten Unterthanenverhältnisses anerkannt wird. Ist dies der Fall, so erscheint der Ausgewanderte, so lange er im Auslande lebt und sein früheres Vaterland noch nicht wieder gewählt hat, als Ausländer und ohne

* (Verbal translation.) Art. 4th expresses the principle that persons naturalized in the territory of the one part after emigrating from that of the other, shall no longer stand under the protection of the treaty, if they settle again permanently in their former country. The question about the citizenship (Staatsangehörigkeit) of persons returned in this way, is to be decided again according to the particular (inneren) legislation, by which, as it is known, frequently a double citizenship is acknowledged. If this be the case, the emigrant, so long as he lives abroad (im Auslande) and has not returned to the allegiance of his former country, appears as an alien (Ausländer, foreigner) and without obligations towards his home; on his return, all his former rights

Verpflichtungen gegen das Heimathland; kehrt er zurück, so leben seine alten Unterthanenrechte wieder auf, und mit den Rechten auch die Pflichten, deren Erfüllung der Staat von seinen Angehörigen verlaut, — den Vereinigten Staaten von Amerika gegenüber selbstverständlich unter den Modalitäten und Beschränkungen des Artikels 4 des Vertrages.

Wird durch die innere Gesetzgebung die Möglichkeit eines mehrfachen Unterthanenverhältnisses nicht statuirt, die Zulässigkeit eines solchen vielmehr sogar verneint, so wird der in seine Heimath Zurückkehrende, wie der Einwandernde, Heimaths- und Unterthanenrechte wieder besonders zu erwerben haben.

Ob der in sein ursprüngliches Vaterland zurückkehrende und sich dort niederlassende Auswanderer die Absicht unterhält, in der alten Heimath zu verbleiben, ist eine Thatfrage, die in jedem einzelnen Falle festgestellt werden muss; jedenfalls aber ist der alte Heimathsstaat befugt, eine Verzichtleistung auf die in der neuen Heimath erlangte Naturalisation anzunehmen, wenn der Zurückkehrende sich länger als zwei Jahre in seinem ursprünglichen Vaterlande wieder aufgehalten hat. Dann ist die Anrufung des Schutzes der neuen Heimath ausgeschlossen.

Artikel 5 und 6

geben zu Bemerkungen keine Veranlassung.

as a subject (or citizen) revive, and with the rights also the duties which the state exacts from its subjects or citizens (Angehörigen) — in relation to the United States of America, of course, under the modalities and restrictions of Article 4 of the Treaty.

If the particular legislation of a state do not permit a severalfold citizenship (ein mehrfaches Unterthanenverhältniss), nay if it expressly forbid it, the person returning to his former home, alike with the emigrant, will have to réacquire anew his rights of home and as a subject (Heimath- und Unterthanenrechte).

Whether the emigrant returning to his original country and settling there, has the intention to remain in his old home, is a question of fact, which must be settled in every particular case, in any case, however, the government of the old country of the person in question is entitled to take for granted a renunciation of the naturalization acquired in the adopted country, if the person returned resides again longer than two years in his original country. Then the claim of the protection of the new country is excluded.

Die vereinigten Ausschüsse beantragen:

der Bundesrath wolle dem abgeschlossenen Vertrage die Zustimmung ertheilen, und das Präsidium um die Vorlage desselben an den Reichstag zum Zweck der verfassungsmässigen Genehmigung ersuchen.

Berlin, den 16. März 1868.

Die vereinigten Ausschüsse

für das Landheer und die Festungen und für Justizwesen.

v. Podbielski.
v. Brandenstein.
v. Bilguer.
v. Seebach.

Pape.
v. Bertrab.
Curtius.

III.

EXTRACT

FROM

THE TRANSACTIONS OF THE DIET OF THE NORTH GERMAN CONFEDERATION, 6TH SESSION, THURSDAY, APRIL 2^D 1868.

Auszug

aus den Verhandlungen des Reichstags des Norddeutschen Bundes.

6. Sitzung, am Donnerstag, den 2. April 1868.

.....

Der Herr *Bundeskanzler* theilt mit, dass der Bundesrath des Norddeutschen Bundes für die Vertretung der nachstehend bezeichneten Vorlagen ausser seinen Mitgliedern auf Grund des Artikel 16 der Bundesverfassung zu *Commissarien ernannt hat*, und zwar:

..... 3) für den Vertrag zwischen dem Norddeutschen Bunde und den Vereinigten Staaten von Amerika, betreffend die Staatsangehörigkeit derjenigen Personen, welche aus dem Gebiete des einen Theils in das des andern einwandern, den Königlich Preussischen Geheimen Legationsrath Herrn *König*. — . . . , . . .

Präsident. Wir treten in die Tages-Ordnung ein, und zwar zunächst in die *Schlussberathung über den am 22. Februar*

d. J. zwischen dem Norddeutschen Bunde und den Vereinigten Staaten von Amerika abgeschlossenen Vertrag, betreffend die Staatsangehörigkeit derjenigen Personen, welche aus dem Gebiete des einen Theils in das des andern einwandern.

Referenten sind die Abgeordneten Meier (Bremen) und Dr. Schleiden.

Der Antrag ist auf der heutigen Tages-Ordnung abgedruckt. Er geht dahin:

Der Reichstag wolle beschliessen:

dem bezeichneten Vertrage die verfassungsmässige Zustimmung zu ertheilen.

Ich bitte den Abgeordneten Meier (Bremen) das Wort zu nehmen.

Berichterstatte*r* Meier (Bremen): Der vorliegende Vertrag zwischen dem Norddeutschen Bunde und den Vereinigten Staaten scheint auf den ersten Blick vielleicht nicht von der Bedeutung und der Tragweite, wie er meines Erachtens ist. Denn es wird in demselben ein neues Princip im völkerrechtlichen Verkehr zur Anerkennung gebracht, welches bei dem gesteigerten Verkehr über die ganze Erde wirklich eine Nothwendigkeit ist, das Princip, dass, wenn ein Angehöriger des einen Staates gesetzmässig Angehöriger eines andern Staates wird, er damit seiner Rechte und seiner Pflichten ledig wird. In den meisten grösseren Staaten kann das Recht auf seine Angehörigkeit entweder nicht oder erst nach längerer Zeit aufgegeben werden, selbst wenn sie in einem andern Staate naturalisirt worden sind, und hat diess häufig Anlass zu Differenzen gegeben bei der starken Auswanderung aus Deutschland nach den Vereinigten Staaten, wohl nirgends mehr, als zwischen diesem und den einzelnen Staaten von Nordamerika, indem, wenn die deutschen Angehörigen, die in Amerika naturalisirt waren, in die Heimath zurückkehrten, sie von ihren Regierungen in Anspruch genommen wurden, namentlich wegen ihrer Militärpflicht. In dieser Weise sind sehr viele Reclamationen zu meiner Kenntniss gekommen, und wenn sie nicht zum Anstrag gebracht worden sind, so mag es wohl damit zusammenhängen, dass es seine Schwierigkeit hatte, sie gegen manche der Staaten geltend zu machen. Diese Schwierigkeiten würden aber gegen den Norddeutschen Bund nicht mehr bestehen. Ich erachte es daher für eine weise Fürsorge, und ich möchte dem Herrn Bundeskanzler meinen Dank dafür darbringen, dass auf diese Weise durch den vorgelegten Vertrag zukünftigen Conflicten vorgebeugt ist. Ich frene mich, dass dieses neue Princip im

Völkerrecht zuerst von dem Norddeutschen Bunde und den Vereinigten Staaten zur Geltung gebracht worden ist. Ich hoffe, dass die Bemühungen in diesem Fortschritt auch auf einem anderen Gebiete ebenso mit Erfolg gekrönt werden, wie auf diesem — ich meine den Antrag, den wir soeben hier vernommen haben.

Um übrigens die Bedeutung dieses Vertrages noch zu constatiren, will ich nur erwähnen, dass, sobald er verlautbarte, sofort in England, wo man das Princip der Angehörigkeit stets und auf ganze Lebzeiten festgehalten hat, sich Stimmen im Parlamente erhoben haben, einen gleichen Vertrag in Aussicht zu nehmen und ein ähnliches Princip zu adoptiren.

Was die Bestimmungen des Vertrags selbst anbetrifft, so bemerke ich zunächst, dass sie auf vollkommener Gegenseitigkeit beruhen*; sie sind den bestehenden Naturalisationsgesetzen der Vereinigten Staaten angepasst, welche einen fünfjährigen ununterbrochenen Aufenthalt erfordern, um das Bürgerrecht zu erlangen. Bei der etwas laxen Praxis in dieser Beziehung und bei dem Mangel jeder Controle in den Vereinigten Staaten ist man aber sehr häufig davon abgewichen. Die Leute sind vielleicht früher Bürger geworden, als nach einem fünfjährigen Aufenthalte, und gerade solche Fälle sind Veranlassung zu diesen Conflicten gewesen, welche meines Erachtens dieser Vertrag beseitigt, indem nicht mehr das Factum des Bürgerwerdens, sondern die Zeitdauer des Aufenthaltes bei der Beurtheilung dieser Frage in Betracht kommen wird, und die Zeitdauer natürlich viel leichter zu constatiren, als der Beweis, dass Jemand wirklich Bürger geworden, zu führen ist. Und somit wird der Vertrag dazu beitragen, die guten Verhältnisse mit einem Lande, in dem Millionen von Deutschen ihre zweite Heimath gefunden haben, mit dem uns die ausgedehntesten Handels- und Schifffahrtsbeziehungen in Verbindung setzen, immer mehr und mehr zu befestigen.

Ich möchte mir noch eine ganz kleine Bemerkung zu den Ausführungen in dem Berichte des Bundesrathes erlauben. Es wird nämlich darin gesagt, das Princip des Rechts, in zwei Staaten zu gleicher Zeit Bürger zu sein, würde durch diesen Vertrag nicht berührt — was ja richtig ist —, aber die Vereinigten Staaten haben stets das Princip hingestellt, dass, wer Bürger der Vereinigten Staaten sei,

* Nur dass keine gebornen Amerikaner mit der Absicht auswandern, deutsche Unterthanen zu werden. Ich kenne wenigstens *keinen*. M.

nie Bürger eines andern Staates sein könne, und in ihrem Gesetze und in dem Bürgereide, den Jemand, der naturalisirt werden will, zu schwören hat, muss er ausdrücklich jede Angehörigkeit, jeden Gehorsam, seine *allegiance* gegen seinen Heimathsstaat abschwören. — Dieses will ich nur, um Missverständnisse zu vermeiden, hinzufügen.

Im Uebrigen kann ich mit vollster Ueberzeugung dem Hohen Hause die Zustimmung zu diesem Vertrage, welcher am Geburtstage des grossen Gründers der Republik gezeichnet ist, empfehlen, und bitte Sie, unsern Antrag anzunehmen.

Präsident: Ich frage, ob der Herr Correferent sich jetzt äussern will?

Correferent Dr. Schleiden: Meine Herren! Wie der geehrte Herr Referent, so kann auch ich Ihnen nur mit voller Ueberzeugung empfehlen, diesem Vertrage Ihre verfassungsmässige Zustimmung zu ertheilen. Mit der Auffassung des Herrn Referenten bin ich allerdings nicht ganz einverstanden; ich glaube, die Sache steht juristisch etwas anders, und ich werde mir gleich erlauben, mit wenigen Worten darauf einzugehen. Lassen Sie mich aber voranschicken, dass wir, meiner Ansicht nach, der Bundes-Regierung Alle zu Dank verpflichtet sein müssen, dass sie dafür Sorge getragen hat, einen Differenzpunkt zu beseitigen, der schon mehr als einmal zu ernstern Zerwürfnissen zu führen gedroht hat.

Wer, wie ich, Jahre hindurch die Ehre gehabt hat, deutsche Staaten jenseits des Oceans diplomatisch zu vertreten, die blühenden Ansiedelungen unserer deutschen Mitbürger nicht nur im Osten, sondern am Oberen See, auf den fernen Prairien des Westens, an den Mündungen des Mississippi zu beobachten, und überall dort Freunde zählt, — wer weiss, wie sehr alle diese Deutschen noch mit der Heimath zusammenhängen und den lebhaften Wunsch haben, die bestehenden Beziehungen zwischen jener grossen Republik und Deutschland immer inniger zu machen, wer ferner weiss und beachtet, dass die Deutsch-Amerikaner während des letzten Bürgerkrieges auf den Schlachtfeldern sich die Achtung ihrer neuen Mitbürger erkämpft haben, dass Volk und Regierung der Vereinigten Staaten dankbar anerkennen, dass von allen Nationen der Welt die Deutschen ihnen während jenes grossen Kampfes die lebhaftesten Sympathieen entgegengetragen und nie daran gezweifelt haben, dass die Sache der Union und der Freiheit siegen werde, sobald erst die Regierung in Washington gelernt haben werde, ihre volle Macht zu gebrauchen, und dass Deutschland

auch heute nicht bezweifelt, dass auch die gegenwärtige grosse Krisis glücklich überwunden werden wird, weil in der grossen Masse des Amerikanischen Volkes Mässigkeit und Sinn für Gerechtigkeit besteht; wer, sage ich, dies Alles beachtet, der wird mir auch darin beistimmen, dass wir alle Ursache haben, der Bundesregierung dankbar zu sein, dass sie durch diesen Vertrag einen Differenzpunkt beseitigen will, der zu einer Störung dieser freundlichen Beziehungen hätte führen können. Wiederholt ist man nahe daran gewesen, zu einem solchen Zerwürfniß zu kommen.

Das Princip, dass jeder Staat das ausschliessliche Recht hat, die Verhältnisse von Personen und Dingen innerhalb seines Territoriums nach seinem eigenen souverainen Willen und Gutdünken zu reguliren, ist allgemein anerkannt, ist auch im Nordamerikanischen Rechte, wie die berühmten Juristen Story, Lawrence und Andere bezeugen, anerkannt. Aus diesem Principe folgt, dass jeder einzelne Staat das Recht hat, die Militärpflichtigkeit seiner Angehörigen und die Bedingungen, unter welchen er denselben gestatten will auszuwandern, zu bestimmen. Das ist denn auch in allen deutschen Staaten geschehen. Ich halte es aber nicht für nöthig, auf die Einzelheiten in dieser Beziehung einzugehen, weil Jeder, der sich darüber unterrichten will, in einem 113 Folioseiten langen Bericht des seligen Bundestags aus der 21. Sitzung vom Jahre 1858 eine sehr gute Zusammenstellung der betreffenden Gesetz-Bestimmungen findet. Mehrere Staatsmänner Amerika's, deren Namen auch in Deutschland einen sehr guten Klang haben, Henry Wheaton, Daniel Webster, Edward Everett haben in den Jahren 1840, 1852 und 1853 der Königlich Preussischen und der französischen Regierung gegenüber dieses Princip anerkannt und ausgesprochen, dass, wenn ein Fremder, der in Amerika naturalisirt worden sei, demnächst freiwillig in seine Heimath zurückkehre und dort wegen Verletzung seiner Militärpflicht zur Strafe gezogen und zur nachträglichen Erfüllung seiner Militärpflicht angehalten werde, die amerikanische Regierung nicht berechtigt sei, sich einzumischen. In diesem Punkte weiche ich von dem Herrn Referenten ab, der meint, dass das nicht der Fall gewesen sei. Erst unter der Administration des Präsidenten Buchanan, als in Folge der zunehmenden Auswanderung zahlreiche Beschwerden solcher naturalisirten Bürger einliefen, welche glaubten, dass ein amerikanischer Pass bei der Rückkehr in die Heimath ein Freibrief sei gegen alle Bestrafung für Gesetzverletzungen, die sie vor der Auswanderung begangen

haben, — erst damals und, weil in der Zeit, welche der sogenannten neuen Aera in Preussen unmittelbar vorherging, die Militärgesetze mit besonderer Strenge angewandt wurden, stellte man in Amerika ein neues Princip auf. Der Staatssecretär Cass entwickelte, namentlich in zwei Noten vom 12. Mai und 8. Juli 1859, dieses neue Princip, indem er sagte: Diejenigen Staaten, mit denen Amerika in einem Vertragsverhältniss steht, und die vertragsmässig sämmtlichen Amerikanischen Bürgern Schutz zugestanden haben, wenn sich dieselben in ihren Ländern befinden, *dürfen keinen Unterschied zwischen eingebornen und naturalisirten Bürgern Amerika's machen, die bekanntlich alle dieselben Rechte haben, mit der einzigen Ausnahme, dass kein naturalisirter Bürger Präsident werden kann*, und auch eine längere Frist erforderlich ist, ehe er in den Congress eintreten darf. Er fügte hinzu, naturalisirte amerikanische Bürger dürften namentlich nicht bestraft werden, wenn sie eine erst künftig eintretende Militärpflicht verletzt hätten, und nicht unmittelbar aus dem Militärdienste entwichen seien. Ferner wollte er den kleineren deutschen Staaten nicht gestatten, dass sie auf Grund der Bundes-*Cartel-Convention* vom Jahre 1831 die militärpflichtigen Deserteure aus andern Deutschen Bundes-Staaten, die mittlerweile in Amerika naturalisirt waren, an ihren Heimathstaat auslieferten. Ich will ihnen nichts aus diesem Buche vorlesen, meine Herren, aber es enthält dasselbe die Correspondenz, die in dieser Beziehung dem Amerikanischen Congress im Jahre 1860 vorgelegt ist.

Nach diesen einleitenden Bemerkungen erlauben Sie mir einige Worte über den Vertrag selbst zu sagen. *Der Vertrag*, obgleich ich ihn warm empfehle, *ist leider nicht so glücklich gefasst, wie man wünschen möchte*. Ich halte es desshalb für meine Pflicht, den Inhalt der einzelnen Artikel, wie ich denselben verstehe, Ihnen kurz darzulegen, und ich richte an die Herren Vertreter des Bundesrathes die Bitte, mich zu berichtigen, wenn ich den Inhalt nicht richtig constatire, und wenn die Herren nicht überzeugt sein sollten, dass die Amerikanische Regierung meine Interpretation theilt, *dafür Sorge zu tragen, dass bei dem Austausch der Ratificationen in einem Schlussprotocoll dies näher constatirt werde*. *

* Dr. Schleiden „The treaty is not so satisfactorily worded as one could wish.“ „that care might be taken that at the exchange of ratifications any difference of opinions be stated in a conclusive protocol“ (which never appeared. M).

Der Vertrag liegt uns in zwei Originaltexten vor, beide von den Herren Unterhändlern unterzeichnet; es ist aber nicht gesagt, ob der Englische oder der Deutsche Text entscheiden soll, und dennoch stimmen diese Texte keineswegs in allen Punkten überein, wie ich Ihnen gleich nachweisen werde.

Fängt man mit dem ersten Artikel an, so sagt derselbe zunächst, dass die Angehörigen des Norddeutschen Bundes und umgekehrt auch diejenigen der Vereinigten Staaten, welche naturalisirte Staats-Angehörige des andern Staats geworden sind und fünf Jahre lang ununterbrochen sich dort aufgehalten haben, als Bürger des andern Staates anerkannt werden sollen. Wenn wir nicht die Materie vor uns hätten, so würde man unbedingt sagen müssen, dass nicht nur die Naturalisirung, sondern *ausserdem* auch noch ein fünfjähriger Aufenthalt erforderlich sei. Nach den amerikanischen Gesetzen ist nämlich ein ununterbrochener Aufenthalt, um Bürger zu werden, nicht länger erforderlich, im Jahre 1848 hat der Congress die Bestimmung des älteren Gesetzes vom 14. April 1802 in dieser Beziehung aufgehoben. Während des Krieges ist ferner im Juli 1862 ein Gesetz erlassen, wonach ein Fremder schon nach *einjährigem* Aufenthalt Amerikanischer Bürger werden kann, wenn er in die Armee eintritt und nachher ehrenvoll entlassen wird. Stände nicht in den Motiven, dass im *Ganzen* nur ein Zeitraum von fünf Jahren erforderlich sei, dann müsste man annehmen, dass Naturalisation *und* fünfjähriger Aufenthalt, also entweder zehn oder respective sechs Jahre nöthig wären. Es ist ausserdem bei dem Worte „ununterbrochen“ einer bedenklichen Interpretation Spielraum gelassen. Jeder aus Norddeutschland stammende Bürger Amerika's wird, wenn er sich dem Niagarafall nähert, den Wunsch hegen, auch einmal hinüber zu fahren an das Canadische Ufer um den grossartigen Regenbogen zu sehen, der sich allabendlich von dem einen Falle zum andern hinüberspannt. Ist das eine Unterbrechung des Aufenthalts? Die Amerikaner haben es früher, bis 1848, so angesehen, jetzt thun sie es nicht mehr. Im zweiten Alinea dieses Artikels fehlt ferner dieses Wort „ununterbrochen“ ganz in dem Deutschen Text, im Englischen steht es. In diesem zweiten Alinea liegt die einzige Gegenconcession, welche uns die Amerikanische Regierung gemacht hat. Nach Kents berühmten Commentaren und nach der Erklärung des jetzigen Präsidenten Johnson in seiner letzten Jahresbotschaft an den Congress haben die Vereinigten Staaten, wie auch der Herr Referent hervorhob, bisher niemals zugegeben, dass ein

Amerikanischer Bürger ohne einen Act der Legislative sich seines Amerikanischen Bürgerrechts entäussern könne; darauf haben die Amerikaner jetzt zum ersten Male Verzicht geleistet.

Ich komme nun zu dem *zweiten* Artikel. Das ganze Schwergewicht liegt in diesem zweiten Artikel und zwar in dem kleinen Wörtchen „*vor*“. Wer nicht gewohnt ist, Verträge zu lesen, wird schwerlich, wenn er nicht, die Motive zur Hand hat, verstehen können, was eigentlich dieser Artikel meint. Es heisst darin, bei Rückkehr eines naturalisirten Bürgers in seine Heimath solle er wegen Verbrechen, die er „*vor*“ seiner Auswanderung verübt hat, bestraft werden können; er darf also nicht bestraft werden wegen Verbrechen, die er *durch* die Auswanderung begangen hat, und gerade die Verletzung der Militärpflicht erfolgt erst durch die Auswanderung selbst. Dieses Wort ist daher zu beachten. Der Artikel bietet auch noch zu zwei andern Bedenken Anlass; es heisst dort, der Rückkehrende soll nach den „*dortigen*“ Gesetzen beurtheilt werden, welche sind das? „*Dortige*“ bezieht sich ebensowohl auf den einen; als auf den andern Theil; es hätte heissen müssen: „nach den Gesetzen des letzteren“ (also des Heimathsstaates). Das steht denn auch in dem Englischen Text präcis ausgedrückt, im Deutschen nicht. Am Schlusse heisst es ferner, Strafe soll nicht eintreten, wenn „*Verjährung*“ eingetreten sei, im Englischen Text heisst das Wort „*limitation*“, welches alle Arten von Beschränkungen umfasst. Aber, meine Herren, der ganze Satz ist vollkommen überflüssig, denn wenn der Zurückkehrende nach den heimischen Gesetzen beurtheilt werden soll, so kommt es natürlich nur auf diese an. Wenn das heimische Gesetz wegen Verjährung oder aus irgend einem andern Grunde keine Strafe erkennt, so kann eine solche auch nicht eintreten.

Der *dritte* Artikel ist gut gefasst. Durch denselben wird der bestehende Preussisch-Deutsch-Amerikanische Auslieferungs-Vertrag vom Jahre 1852 auf sämtliche Staaten des Norddeutschen Bundes ausgedehnt. Mit Ausnahme von Lübeck und Hamburg gehören schon jetzt sämtliche Staaten des Norddeutschen Bundes diesem Verträge an.

Ich selbst habe im Herbste 1853 die Ehre gehabt, für Bremen den Beitritt zu vermitteln. Selbst der ganze Süden Deutschlands, mit alleiniger Ausnahme von Baden, ist diesem Verträge beigetreten, Bayern in einem besonderen, fast wörtlich gleichlautenden Verträge. Der Vertrag selbst ist, obgleich die Kosten und die Schwierigkeiten des Beweis-Verfahrens, die danach bei Auslieferungsfällen erwachsen,

enorm sind, doch von allen Auslieferungs-Verträgen, welche die Vereinigten Staaten geschlossen haben, der beste. Es bestehen nämlich noch solche Verträge zwischen den Vereinigten Staaten und England, Frankreich, der Schweiz und mit den Hawai-Inseln. Unser Vertrag zeichnet sich aber dadurch aus, dass die Verbrechen, wegen deren Auslieferung erfolgen soll, darin am besten definirt sind, wenn gleich Nothzucht und qualificirter Diebstahl, welche sich in den Verträgen mit Frankreich und der Schweiz finden, in unsern Vertrag nicht aufgenommen sind.

Aber unser Vertrag enthält einen Artikel von höchster Wichtigkeit, den Artikel 3, demzufolge kein Staat verpflichtet ist, seine eigenen Unterthanen auszuliefern, während nach den andern Verträgen auch die eigenen Unterthanen ausgeliefert werden. Der Vertrag vom 16. Juli 1852 steht schon seit 1858 auf Kündigung. Es ist deswegen gut, dass wir denselben jetzt auf 10 Jahre verlängern.

Ich komme zu dem Artikel 4. Derselbe bezieht sich auf den Fall der nach Deutschland zurückkehrenden Deutschen. Deren Zahl ist sehr gross. Aus einer Depesche, welche im Januar 1859 der damalige amerikanische Gesandte, Herr Wright, seiner Regierung erstattete, geht hervor, dass in den vorangegangenen Jahren nach genauen, in Bremen, Hamburg und Berlin angestellten Ermittlungen jährlich mindestens 10,000 Deutsche zurückkehrten*. Seitdem hat, namentlich in Folge des amerikanischen Krieges, die Zahl der Rückkehrenden noch sehr zugenommen**. Nun sagt dieser Artikel nur, es solle als Verzichtleistung auf die Naturalisation angesehen werden, wenn Jemand mit der Absicht, dort zu bleiben, in seine Heimath zurückkehrt. Hätten wir nicht die Denkschrift vor uns, die eine Interpretation giebt, und wo gesagt ist: „Wird durch die innere Gesetzgebung die Möglichkeit eines mehrfachen Unterthanen-Verhältnisses nicht statuirt, die Zulässigkeit eines solchen vielmehr sogar verneint, so wird der in seine Heimath Zurückkehrende, wie der Einwandernde, Heimaths- und Unterthanen-Rechte wieder besonders zu erwerben haben“; — so würde man annehmen müssen, dass jeder Staat gezwungen wäre, den Zurückkehrenden wieder aufzunehmen. Wie zweifelhaft aber die Fassung ist, ergiebt sich daraus, dass bei den von dem Herrn Referenten erwähnten Verhandlungen

* Von denen aber nur eine geringe Anzahl in Deutschland bleibt. M.

** Wegen der Theuerung aller Bedürfnisse. M.

des englischen Parlaments am 20. v. M. der Attorney-General die Frage stellte, welche Rechte der Rückkehrende erhalte, und welchen Effect seine zeitweilige Expatriation habe? Diese Frage war vollkommen gerechtfertigt, weil in einer Note des vormaligen Ministers von Manteuffel vom 9. November 1857 gesagt ist, die Preussische Regierung liebe es überhaupt nicht, dass ihre früheren Unterthanen zurückkehrten und Rechte in Anspruch nähmen, nachdem sie früher ihre Pflicht verletzt hätten.

Wichtiger ist ein Zweifel, wozn die Fassung des letzten Alinea's dieses Artikels Anlass giebt. Es heisst dort, dass bei der Rückkehr eines Naturalisirten nach einem Aufenthalte von zwei Jahren in dem Gebiete des andern Theils der Verzicht auf die Naturalisation präsumirt werden solle. Es ist nicht gesagt, ob dieser Aufenthalt ein ununterbrochener gewesen sein müsse, wie das im Artikel 1 stipulirt ist.

Ich glaube aber, wir können uns beruhigen, denn wer zurückkehrt, und sein Domicil in der Heimath nimmt, hat dadurch den *animus revertenti* zu erkennen gegeben, auch wenn er sich zeitweilig wieder entfernt, und es ist nicht zu besorgen, dass Schwierigkeiten entstehen werden. Jedenfalls aber, und so sehr man auch an einzelnen Fassungen des Vertrages mäkeln und mit Recht Ausstellungen machen kann, jedenfalls wird doch die Annahme des Vertrags grossen Gewinn bringen. Man braucht nicht mit Bluntschli der Ansicht zu sein, die er in seinem Staatsrechte ausgesprochen hat, dass die Militärpflicht, wie sie in Preussen und im Norddeutschen Bunde als eine unabweisliche Bürgerpflicht besteht, nur für solche Staaten nöthig sei, die das Bedürfniss des Wachstums auf Eroberungen hinweist, und dass sie nicht für den Normalzustand der modernen, die Freiheit aller ihrer Angehörigen in vollem Masse würdigenden Staaten passe. Man braucht, wie gesagt, diese Ansicht nicht zu theilen, um dennoch zu sagen, dass durch diesen Vertrag ein Fortschritt gemacht wird, weil wir hoffen dürfen, dass dadurch die intimen Beziehungen, welche bisher zwischen den Vereinigten Staaten und Deutschland bestanden haben, sich auch ferner mehr und mehr entwickeln werden. Meine Herren! Ich empfehle Ihnen die Genehmigung des Vertrages.

Präsident: Der Herr Vertreter des Bundesrathes Geheime Legationsrath König hat das Wort.

Commissar des Bundesrathes Geheime Legationrath *König*: Der Herr Correferent hat gesagt, dass der Vertrag theilweise nicht glücklich gefasst sei und Zweifeln Raum gebe. Ich glaube, dass diese Zweifel beseitigt werden, wenn man in dem Vertrage nicht mehr sucht, als was er enthalten soll. Es ist zuerst gefragt worden, was eigentlich die Bedeutung des Artikels 1 sei. Der Artikel bestimmt, dass beide Theile gegenseitig ausgewanderte und in dem Gebiete des andern Theiles naturalisirte Staatsangehörige als Staatsangehörige dieses andern Theiles ansehen sollen, wenn sie fünf Jahre lang ununterbrochen in dem Gebiete dieses andern Theiles sich aufgehalten haben. Nach den Gesetzen Amerika's kann nämlich Jemand erst nach fünfjährigem Aufenthalte naturalisirt werden. Inzwischen hat der Herr Correferent bereits ausgeführt, dass in diesen Grundsatz bereits Bresche gelegt sei, und anderseits wird von verschiedenen Seiten darauf hingewirkt, dass diese Frist allgemein abgekürzt werde. Um nun Deutschland gegenüber diese fünfjährige Frist aufrecht zu erhalten, ist sie eben in den Vertrag aufgenommen worden. Das wird den Erfolg haben, dass, wenn auch Amerika seine Gesetzgebung ändert und allgemein eine kürzere Frist als Bedingung der Naturalisation hinstellt, Deutschland gegenüber ein ausgewanderter Deutscher, der vor Ablauf von fünf Jahren naturalisirt wird, nicht als Amerikaner angesehen wird. Die Auslassung in dem Alinea 2 des Artikels 1 beruht lediglich auf einem Druckfehler, wie dies der englische Text beweist, der das „ununterbrochen“ enthält. Ebenso erläutert der englische Text im Artikel 2 den Ausdruck „dortige“, wie schon der Herr Referent hervorgehoben hat.

Es ist ferner gefragt worden, ob der Artikel 2 auch den Fall einschliesst, wenn Jemand durch die Auswanderung selbst die Gesetze seines bisherigen Vaterlandes verletzt, also namentlich, wenn er sich durch die Auswanderung der Militärpflicht entzieht. Eben diesen Fall hat der Artikel decken sollen, und es wird also ein Deutscher, welcher in Amerika sich fünf Jahre aufgehalten und dort das Bürgerrecht erworben hat, bei der Rückkehr nicht mehr zur Untersuchung und Strafe wegen unerlaubter Auswanderung gezogen werden.

Zu Artikel 4 ist gefragt worden, welche Folgen die Rückkehr dann habe, wenn der Rückkehrende die Staatsangehörigkeit in dem neuen Vaterlande verliere. Nun, meine Herren, ich glaube, dass über diese Frage der Vertrag gar nicht zu bestimmen hatte. Die Aufgabe des Vertrages war, die Verhältnisse derjenigen Personen

zu regeln, welche beide contrahirenden Theile als Staatsangehörige ansehen.

Der Vertrag hatte aber nichts zu bestimmen über diejenigen Personen, welche nur von dem einen Theile als Staatsangehörige angesehen werden. Der Artikel 4 hat den Fall im Auge, wenn ein Deutscher, oder umgekehrt ein Amerikaner in sein ursprüngliches Vaterland zurückkehrt, und von dem Staate, in welchem er das Bürgerrecht erworben hat, nicht mehr als Bürger angesehen wird, dann kann er sich nicht mehr auf diesen Vertrag berufen. Was er im Verhältniss auf sein früheres Vaterland für eine Stellung hat, das, meine Herren, ist lediglich Sache der inneren Gesetzgebung des betreffenden Staates, darum hat sich der andere contrahirende Theil gar nicht zu bekümmern*.

Präsident: Bei der nun eröffneten Discussion, von der ich bemerke, dass es keine General-Debatte ist, die die Geschäftsordnung nur bei Gesetzentwürfen kennt, hat zuerst der Abgeordnete Dr. Loewe das Wort.

Abgeordneter Dr. *Loewe:* Meine Herren! Auch ich begrüsse den Vertrag als Fortschritt des internationalen Rechts und freue mich um so lebhafter darüber, als es ein Vertrag zwischen zwei Nationen ist, die, wie schon die Thronrede uns erklärt hat, durch die Bande der Verwandtschaft eng mit einander verbunden sind, die Bande der

* Privy Councillor *Koenig* (who made the treaty together with Mr. Bancroft): „ Concerning Art. 4 the question has been asked what would be the consequences of the emigrant on his return losing his naturalization in his adopted country. Well, gentlemen, I believe that the treaty had not at all to decide that question. The end of the treaty was to regulate the position of such persons who are looked upon as being citizens or subjects of both the treating parties.

But the treaty had to decide nothing with regard to persons who are claimed as citizens by either party only. The article 4 provides for the case *that a German, or an American, returns to his original country and is no longer looked upon as a citizen by that state where he has become naturalized, when he can no longer claim the power of this treaty. What will be his position with regard to his original country, that, gentlemen, is purely the business of the particular legislation of the state in question, and the other of the two treating parties can have no hand in it.*

Verwandtschaft, sowohl der allgemeinen Racen-Verwandtschaft, als vieler individueller Verwandtschaften, wo Angehörige derselben Familie in dem *einen*, wie in dem *andern* Lande leben. Dass solche Verhältnisse wohl werth sind, durch besondere Verträge erleichtert zu werden, und dass der Verkehr, der aus einem solchen Verhältniss hervorgeht, auch die wichtigsten materiellen Interessen in sich schliesst, ist unzweifelhaft. Es kann auch gar keine Frage sein, dass ein gut geordnetes Verhältniss zwischen den Deutschen hier und drüben selbst für unsere Handelsbeziehungen von wesentlichem Vortheile sein wird. Jedenfalls kann das Der nicht bezweifeln, der gesehen hat, wie sehr die Deutschen, die in jenem Lande leben, die Handelsbeziehungen mit ihrer eigenen Heimath zu pflegen geneigt sind.

Ich bin für die Annahme dieses Vertrages, aber ich gehe auch von dem Standpunkte aus, den der Herr Regierungs-Commissar — der Schliessers dieses Vertrages — so eben geäussert hat, nämlich, dass man sich wohl hüten soll, nicht mehr in einem Vertrage zu suchen, als darin ist, und ich fürchte beinahe, dass Viele Manches darin zu finden glauben werden, was nicht darin ist. Unseren Landsleuten in Amerika mögen unsere Gesetze über die Heimaths-Berechtigung, das Bürgerrecht u. s. w. doch so weit aus dem Gedächtniss geschwunden sein, dass es ihnen nicht mehr gegenwärtig ist, welche Beschränkungen dieselben diesem Vertrage zufügen: Viel werden sie in diesem Vertrage sehen und hoffen, dass sie manche Rechte wieder bekommen, was eben in Folge unserer Heimathsgesetze zu einer Täuschung wird. Es ist schon erwähnt, dass, *wenn auch die Erläuterungen des Bundesrathes zu Artikel 4 richtig sind* — ich denke, es wird der Art. 4 sein, der von dem Wiedererwachen, wie der Bundesrath sich ausdrückt, des „Unterthanenrechts“ spricht —, er hätte wohl „Bürgerrecht“ sagen können, da es sich hier um zwei Staaten handelt, von denen der *eine* wenigstens keine „Unterthanenrechte“ kennt, — also an der Stelle, wo es sich um Erwachen früherer Rechte handelt, *doch die Beschränkung hinzugefügt ist, dass dabei die Gesetze des Einzelstaates massgebend sind. Ja, meine Herren, sie sind soweit massgebend, dass mittels dieses Vertrages es den Leuten, wenn sie nicht recht aufmerksam und vorsichtig sind, bei ihrer Rückkehr passiren kann, dass sie das eine Bürgerrecht, das sie in Amerika erworben, nach zweijährigem Aufenthalt hier verlieren, ohne dass sie das andere, nämlich ihr altes Bürgerrecht des Geburtsstaates, wieder-*

gewinnen * Von einem einfachen Wiederaufleben eines alten Rechtes, was sie gehabt haben, ist also gar nicht die Rede. Nun nehmen Sie unsere Naturalisations-Gesetze und Heimaths-Berechtigungen, die unter dem Einfluss des Armenbüttels geschaffen sind, wo Jeder verdächtig ist, der Armenkasse zur Last zu fallen, wo also ausgesprochen ist, dass, wenn er zehn Jahre aus der Heimath fortgewesen ist, er ganz aufgehört hat, irgend ein Heimaths- oder Bürgerrecht zu haben, er also hierher zurückgekehrt — was Rechte betrifft — so dasteht, als wenn er in Otahaiti geboren wäre. Was Pflichten betrifft; ach das ist ganz was Anderes. Wenn er Dinge begangen hat, die ihm aufs Conto geschrieben sind, die leben alle auf, aber von Rechten erkennt ihm, wenn er zehn Jahre fort gewesen ist, unsere Gesetzgebung keines zu. Meine Herren, das muss für uns eine ernste Mahnung sein, nicht etwa, dass wir den Vertrag verwerfen, weil er nicht alle die Dinge so regelt, wie wir sie wünschen, sondern dass wir eine Gesetzgebung ändern, die uns wahrlich nicht auszeichnet, und die dem Bürgerrecht nicht zur Ehre gereicht, das so leichtthin durch eine blosse Nachlässigkeit verloren werden kann. Wir müssen eine Gesetzgebung ändern, die lediglich vom grünen Tische, lediglich von Beamten aus gemacht sind, die so wenig als möglich mit den Leuten zu thun haben wollen, und sie sich und der Gemeindekasse vom Halse halten wollen, wenn sie eine Zeit lang fortgewesen sind.

Ich habe mich gefreut, aus der Erklärung des Herrn Regierungs-Commissarius zu hören, dass wenigstens die hässliche Militärgeschichte, die in der That den Anlass zu den meisten Quälereien gegeben hat, beseitigt ist, insoweit doch beseitigt, dass wenn Jemand nicht geradezu hier wieder einen regelmässigen Aufenthalt machen, also länger als zwei Jahre bleiben will, er dann nicht zur Militärpflicht herangezogen werden kann. Ich denke wenigstens, ich darf den Herrn Commissar

* Representative Dr. Loewe: „It has been mentioned that, though we admit the explanations of the Bundesrath of Art. 4 to be correct the restriction is added that the laws of the particular state are to decide. Thus, gentlemen, it may happen that if people be not very attentive and cautious on their return home, they may have lost their citizenship in America after a two years' residence here, without having recovered the other, viz. the citizenship in the land of their birth.“ — (Can there be a doubt of Mr. Bancroft treating away by the 4th Art. our citizenship which not even an act of Congress can take from us? M.)

des Bundesrathes dahin verstehen, dass er mit den Worten: „Der Mann ist nicht haftbar für seine unerlaubte Auswanderung“ — er hat damit ausdrücken wollen: Er ist nicht haftbar für das Verletzen der Verpflichtung zum Militärdienst, der er sich durch diese Auswanderung entzogen hat. Wäre das nicht der Fall, sollte der Ausgewanderte und Zurückkehrende dafür haftbar bleiben, dann, meine Herren, wäre der Gewinn dieses Vertrages nur klein, ich sage nicht, dass dann überhaupt ein solcher nicht mehr vorhanden wäre, aber dann wäre er wesentlich kleiner und es würden sicherlich grosse Schwierigkeiten dadurch entstehen, dass dieser Vertrag geschlossen ist. Denn es würde sich mit Nothwendigkeit daraus ergeben, dass viele naturalisirte Bürger der Vereinigten Staaten in dem guten Glauben, dass die Militärsache mit diesem Vertrage gänzlich abgemacht sei, hier herüber kämen und dabei in die schlimmsten Ungelegenheiten kämen. Dieser Vertrag würde dann, statt ein neues Band der Freundschaft zu sein, statt die Streitigkeiten zu vermindern, die zwischen beiden Staaten bestanden haben, nur eine Quelle neuer Streitigkeiten werden.

Wenn der Herr Referent den Gedanken ausgesprochen hat, dass man auf dem fünfjährigen Zeitraume hätte beharren müssen, weil anzunehmen sei, dass bald die Naturalisationsfrist in Amerika geringer als fünf Jahre sein werde, so bin ich der ganz entgegengesetzten Meinung. So weit ich die Strömungen, die in dem öffentlichen Leben jenes Landes bestehen, beurtheilen kann, glaube ich, dass nicht die geringste Aussicht dazu da ist, die Naturalisationsfrist zu verkürzen. Es sind aber auch nicht immer bloß fünf Jahre; fünf Jahre ist das Mindeste, und ich möchte dem Herrn Referenten darin widersprechen, wenn er sagt, dass diese fünfjährige Frist häufig umgangen werde. Alle politischen Parteien schuldigen einander an, dass sie, um Stimmen zu gewinnen, Bürger pressen, die nicht ganz fünf Jahre da sind. Wenn aber die Sachen untersucht werden, dann sind es eben Anschuldigungen, die die eine Partei gegen die andere macht, weil sie vermuthet, dass sie wohl eines solchen Vergehens fähig sei, oder auch nur, weil sie sie in der öffentlichen Meinung discreditiren will. Factisch kommt es nicht so häufig vor, und wenn Sie auf der andern Seite nun nehmen, dass nicht bloß die Naturalisation nicht vor fünf Jahren erfolgen kann, sondern dass sie erst zwei Jahre später erfolgen kann, als die sogenannte Absicht dazu, die „*intention*“ Bürger zu werden, erklärt ist, so finden Sie, dass in den allermeisten Fällen die Deutschen, die dort hinübergekommen sind, länger als fünf Jahre

dagewesen sind, bevor sie Bürger werden. Die ängstliche Vorsicht auf die Möglichkeit der Verkürzung der Naturalisationsfrist ist in der That überflüssig.

Ich wünsche nichts lebhafter, als dass die Regierung bei der Auslegung und Handhabung dieses Vertrages den Geist der Verträglichkeit und Versöhnlichkeit habe, der wesentlich dazu führen wird, die Bande in der That enger zu ziehen, die die Vertragschliessenden so eng als möglich ziehen wollen. Ich wünsche das besonders noch im Hinblick auf die allgemeinen politischen Verhältnisse. Wenn ich sehe, dass wir jetzt wieder zuerst mit einem neuen internationalen Vertrag einen Schritt zu jenem grossen Staate dort jenseits des Oceans gemacht haben, so kann es sich meiner Erinnerung um so weniger entziehen, dass es der Staat Preussen und der grosse König von Preussen gewesen ist, der zuerst auch einen wichtigen Vertrag mit dem neu erstandenen Staate geschlossen hat; ich habe nun mit Freuden die Anregung begrüsst, die von einer Seite dieses Hauses ausgegangen ist, in dem Antrage an den Bundeskanzler, sich in Verbindung mit den Vereinigten Staaten der Fortentwicklung des maritimen Rechts anzunehmen, d. h. eine Revision des Pariser Vertrags von 1856 zu betreiben. Wenn je zwei Staaten ein Interesse daran gehabt haben, gegenseitig sich zu helfen, gegenseitig sich zu schützen, enggeschlossen in der grossen Weltpolitik neben einander zu stehen, so ist es jetzt dieser Staat, zu dessen Vertretung wir hier versammelt sind, und jene grosse Republik jenseit des Oceans. Auf keiner Seite, wenn man einfach die Dinge nimmt, wie sie sind, immer nur die wirklichen und bleibenden Interessen erwägt, wenn man keine Pedanterie auf der einen und keine muthwilligen Uebergriffe auf der andern Seite vornimmt, dann liegt auf keiner Seite der geringste Grund vor, je in Feindseligkeiten, oder auch nur in Streit mit einander zu gerathen. Wenn wir aber in Verbindung mit Amerika zu einer Erweiterung der Principien des Pariser Vertrages von 1856 kämen, so würden wir damit nur auf dem Wege weiter gehen, den der grosse König eingeschlagen hat mit seinem Vertrage über die Rechte der neutralen Schifffahrt, den er zuerst mit jener Republik geschlossen hat. Und, meine Herren, ich glaube, der Augenblick ist günstig dafür. Welche innere Zwistigkeiten uns auch hier trennen mögen, in der Liebe zum grossen Vaterlande sind wir Alle einig, und diese Liebe antwortet uns aus Millionen Herzen von jenseits des Oceans und sorgt dafür, dass auch jene Regierung mit einer besonderen Aufmerksamkeit diesen

Staat behandelt. Welche Mängel wir auch an dem Bunde, an diesem neuen Staatswesen, an seiner ganzen Herstellung und Gestaltung finden mögen, sicher ist, dass im Auslande das Ansehen der Nation durch den Anfang des nationalen Staats gewachsen ist (*Bravo!*), und ich begrüsse es noch als eine besondere Freundlichkeit des Geschickes, das günstig ist, um grosse Dinge zu vollenden, dass jene Republik jetzt hier durch einen Staatsmann vertreten ist, der durch das wohlverdiente Ansehen als Gelehrter, als Staatsmann und als Patriot, dessen er sich in seiner Heimath erfreut, so wohl befähigt ist, den Gefühlen der Freundschaft und Anerkennung für unsere Nation, bei der er accreditiert ist, Geltung zu verschaffen, die Bande der Freundschaft, die zwischen beiden Staaten bestehen, so fest als möglich zu machen. (*Lebhaftes Bravo!*)

Präsident: Der Herr Bundeskanzler hat das Wort.

Bundeskanzler Graf von *Bismarck-Schönhausen:* Ich habe, glaube ich, nicht nöthig, zur Empfehlung des Vertrages mich eingehend zu äussern, da es unzweifelhaft scheint, dass auch von denjenigen Herren, welche es nicht über sich gewinnen können, eine Regierungsvorlage ohne eine gewisse Werthsverminderung von der Tribüne aus, ohne ein gewisses *timeo Danaos* anzunehmen, der Vertrag, so wie er hier ist, angenommen werden wird, da bei der Schwierigkeit einer Aenderung des Vertrages doch nur die Wahl zwischen Annahme oder Verwerfung ist. Aber ich habe doch geglaubt, das Wort ergreifen zu müssen, da ich, wenn auch der Vertrag in seiner Fassung unvollkommen sein mag, wie der Herr Correferent es andeutete, doch nicht habe glauben können, dass er so unklar gefasst wäre, dass der eigentliche praktische Hauptzweck des Vertrages zweifelhaft geblieben sein könnte, wie ich aus der Aeusserung des letzten Herrn Redners allerdings glaube schliessen zu müssen, wenn ich ihn nicht missverstanden habe. Er befürchtete, dass Jemand, der fünf Jahre drüben gewesen und Amerikanischer Bürger geworden ist, deunoch, wenn er zurückkäme, wieder zur Militärpflicht herangezogen werden könnte. Ich weiss nicht, ob ich ihn richtig verstanden habe. Nun, diese Befürchtung kann ich als eine absolut unbegründete bezeichnen; wir werden nicht blos mit Versöhnlichkeit handeln, sondern die *genaue buchstäbliche Beobachtung des Vertrages* nöthigt uns dazu; wir können solche, die *wir* als Amerikanische Bürger anerkennen, nicht zum Preussischen Militärdienst heranziehen. Hier erklären wir aber, dass unter diesen Bedingungen wir den Betreffenden als Amerikanischen

Bürger anerkennen, ihn also zum Preussischen oder Norddeutschen Militärdienst nicht heranziehen können. Das ist der Hauptzweck des Vertrages. Wir wollen den, der *bona fide* auswandert, nicht hindern, und wer *bona fide*, d. h. nicht blos sichtlich auf kurze Zeit, um sich den Pflichten gegen das Vaterland zu entziehen, auswandert, den wollen wir nicht hindern, Amerikanischer Bürger zu werden, und die *bona fides* wird präsumirt, nachdem Jemand fünf Jahre lang sich dort aufgehalten hat, und nebenher seine Norddeutsche Nationalität aufgegeben hat und Amerikanischer Bürger geworden ist, indem man annimmt, dass das Opfer des eigenen Heimathsrechtes und das Opfer einer fünfjährigen Abwesenheit, bloss, um sich der Militärpflicht zu entziehen, nicht gebracht werden wird, sondern dass es nur dann gebracht wird, wenn man entschlossen ist, auf die Dauer für sich und die Seinigen drüben eine neue Heimath zu gründen *. Ich glaube desshalb, dass die von dem Herrn Vorredner geäußerte Besorgniss von ihm kann fallen gelassen werden, und ich lege Gewicht darauf, sie hier von amtlicher Stelle aus zu berichtigen, um keine Missdeutung des Vertrages im Auslande zuzulassen.

Wenn von dem Herrn Correferenten angedeutet ist, dass sich zwischen dem Deutschen und Englischen Text Widersprüche fänden, so kann ich das nicht zugeben. Jede Sprache hat ihre eigenthümlichen Wendungen, mit denen sie denselben Gedanken ausdrückt. Ich

* Count *Bismarck*: „we shall not only act in a conciliating manner, but the *precise literal observation of the treaty compels us to do so*; we cannot compel such as we acknowledge to be American citizens to serve in the Prussian army. But here we declare that, on such conditions, we acknowledge the person in question as an American citizen, and consequently cannot force him into Prussian or North German military service. That is the main end of the treaty. We do not wish to prevent him who *bona fide* emigrates, i. e. *who does not emigrate for a short time just to evade his duties towards his native land*, we do not wish to prevent him from becoming an American citizen, and the *bona fides* is supposed to exist, after an emigrant has resided five years there, besides giving up his North German nationality and becoming naturalized in America, and we admit that the sacrifice of his citizenship at home, as well as that of five years' absence, *merely* to evade his military duty, will not be made, but that it will only be made when a person is resolved upon founding for himself and his family a new lasting home.“ (Why, if the sincerity of a man that forswears his allegiance to his native land, lives five years in his adopted country and swears fidelity to the latter, when becoming naturalized, is supposed to exist, why — we ask — was the 4th Article introduced into the treaty? M.)

kann auch nicht zugehen, dass das Missverständniss möglich sei, dass die fünf Jahre des Aufenthalts erst nach der Naturalisation folgen sollten; es wird nur verlangt, dass beides cumulirt wird, und die fünf Jahre des Aufenthalts werden von dem ersten Augenblick an gerechnet. Ein momentanes Ueberschreiten der Grenzen nach irgend einer Richtung wird auch in diesem Aufenthalte, der nicht im körperlichen, sondern im juristischen Sinne zu nehmen ist, nichts ändern, und sowohl das Wort Aufenthalt im Deutschen wie das Wort *reside* im Englischen Texte muss im technischen Sinne, nicht im körperlichen genommen werden. Wenn ausgedrückt werden sollte, dass *nach* der Naturalisation fünf Jahre Aufenthalt erforderlich wären, dann würde man in dem Artikel zwischen „und“ und „fünf Jahre“ eingeschaltet haben „demnächst“. Der Termin des fünfjährigen Aufenthaltes *vor* der Naturalisation ist bisher doch nicht überall genau beobachtet, in diplomatischen Reclamationen wenigstens nicht immer als zutreffend anerkannt worden; es mag das darin liegen, dass die einzelnen Staaten darin von einer verschiedenen Praxis ausgehen und manche schon nach einem sehr kurzen Aufenthalt den Fremden zum Bürgerrecht zulassen. Jedenfalls erinnere ich mich aus meiner diplomatischen Praxis, dass Reclamationen gegen die Heranziehung naturalisirter Amerikaner zum Militärdienst mir vorgelegen haben, die erheblich unter fünf Jahren abwesend waren. Der einzige Fall, wo eine Abweichung, aber kein Widerspruch zwischen der Englischen und Deutschen Fassung stattfindet, ist im zweiten Absatz des Artikels 1, wo der Herr Commissarius des Bundesrathes die Auslassung des dem Englischen Wort entsprechenden Deutschen als einen Druckfehler bezeichnet hat. Ich weiss nicht, meine Herren, ob es ein Druckfehler oder ein Schreibfehler ist, der aus dem Original des Vertrages stammt. Sollte letzteres der Fall sein, so wird er natürlich bestehen bleiben, er ist mit dem zum Vertrage erhobenen Text ein integrierender Theil und wir können ihn dann nicht mehr remediren. Ich halte das auch nicht für erforderlich, denn ich glaube, dass nach dem ganzen Geiste des Vertrages, nach dem Zusammenhang im Deutschen Text nicht angenommen werden wird, dass der Ausdruck „fünf Jahre lang“ in Norddeutschland etwa fünf erheblich von einander getrennte Zeiträume in verschiedenen Lebensaltern bedeutet, wobei der ganze Vertrag seinem Wesen nach nicht mehr Anwendung finden würde, wenn man z. B. diese fünf Jahre auf fünf Jahrzehnte vertheilen wollte. Ausserdem declarirt sich der Text der einen Sprache durch den Text

der andern Sprache vollkommen authentisch. Und wenn in dem Englischen Text gesagt ist: „*shall have resided uninterruptedly*“, so ist das eine durchaus ausreichende Ergänzung; wir haben es nicht mit Rabulistik in solchen Dingen zu thun, sondern der Vertrag wird von beiden Seiten ehrlich gehandhabt werden. Ich bitte Sie also, dem Vertrage, so wie er hier ist, Ihre Zustimmung zu geben, an der versöhnlichen und an der freundschaftlichen Handhabung desselben keinen Zweifel zu hegen, sondern deren versichert zu sein, zwischen diesem Bunde und dem jenseits des Weltmeeres, mit welchem uns die Bande der Blutsverwandtschaft in dem Masse verbinden, dass in keinem Lande ausserhalb Deutschlands auch nur annähernd eine solche Anzahl Deutscher, ja, in Deutschlaud geborner Deutscher sich befindet, und dass in keinem Lande der Welt die Deutschen, die in allen Ländern der Welt sich als Gäste oder Auswanderer wiederfinden, sich eine so warme Anhänglichkeit an ihre ältere Heimath bewahrt haben wie dort. Lassen Sie uns den Vorzug, den der Herr Vorredner auf dieser Tribüne berührt hat, der älteste historische Bundesgenosse des Nordamerikanischen Gemeinwesens zu sein, von der ersten Zeit der Unabhängigkeits-Erklärung her, sehr hoch anschlagen und sehr werth halten. (*Bravo! Bravo!*)

Präsident: Der Abgeordnete Lasker hat das Wort.

Abgeordneter *Lasker*: Wenn ich den Herrn Abgeordneten Loewe richtig verstanden habe, so hat sein Zweifel nicht darin bestanden, ob einer, der aus Amerika zurückgekehrt, innerhalb der ersten zwei Jahre zur Militärpflicht wieder gezogen werden könne. Das ist durch den Inhalt des Vertrages ausdrücklich ausgeschlossen. Dagegen glaube ich, dass nicht der Wortlaut des Artikels 4, wohl aber die Erläuterung der Denkschrift mindestens zu der Besorgniss, wenn nicht zu der Gewissheit Veranlassung giebt, dass wer in Amerika die Naturalisation erlangt hat, sodann nach Deutschland zurückkehrt, zwei Jahre da bleibt, wiederum der Militärpflicht unterworfen wird. Wenn ich auch zugestehe, dass nicht dieser Vertrag über diejenigen Pflichten und Rechte, welche der naturalisirte Deutsche seinem eigenen Vater gegenüber hat, zu entscheiden braucht, so ist doch dieser Vertrag wichtiges öffentliches Recht, welches über das Schicksal vieler unserer früheren Mitbürger entscheidet, und es ist rathsam, hierüber keinen Zweifel zu lassen, welche Ansicht die Regierung hegt, sei es in dem einen oder andern Sinne. Durch die Erklärung des Herrn Bundeskanzlers ist dieser Zweifel noch nicht beseitigt worden, denn habe

ich diese Worte richtig verstanden, so haben sie sich nur bezogen auf denjenigen Zeitpunkt, in welchem der Deutsche in der Eigenschaft als naturalisirter Amerikaner sich befindet. Die Denkschrift drückt das aus, was wir im technischen Sinne, namentlich auch im öffentlichen Recht das „*jus postliminii*“ nennen, und zwar ist dies in voller juristischer Schärfe ausgeführt. Die Auffassung wäre danach eine solche: Der Deutsche, der auswandert, hört nicht dadurch auf, Deutscher Bürger zu sein. In dem Augenblick aber, in welchem der Deutsche Bürger der Nordamerikanischen Staaten wird, suspendiren sich die Rechte und Pflichten, suspendirt sich überhaupt sein heimathliches Bürgerthum. Es ist also dann ein entgegenstehendes Hinderniss, welches herbeiführt, dass der Deutsche zu Hause weder Rechte noch Pflichten eines Bürgers besitzt. Kehrt der Deutsche zurück, und wird er entnaturalisirt, so — fährt die Denkschrift fort — ist dies Hinderniss weggefallen, und er nimmt das ursprüngliche Bürgerrecht wieder auf, also das wahrhafte *jus postliminii*. Es fängt nicht ein neues Bürgerrecht an, sondern es wird so gehalten, als ob er niemals ausgewandert wäre. Es heisst nun in der Denkschrift weiter: „Es sei selbstverständlich, dass er mit seinen Rechten seine Pflichten wieder aufnehme.“ So würde das, auf die Militärflicht angewendet, die Bedeutung haben, dass er von dem Augenblick an, von welchem er wieder als zurückgekehrter Deutscher Bürger behandelt, auch der Militärflicht unterworfen wird. Der Text des Vertrages giebt, wie gesagt, zu einer solchen Auslegung keine Veranlassung, wohl aber zwingt beinahe die Ausführung dieser Denkschrift zu einer solchen Annahme. Ich will sie nicht als ganz unberechtigt zurückweisen, aber Sie werden sehen, welcher Unterschied es ist, namentlich für diejenigen, welche in Amerika naturalisirt gewesen sind, in Beziehung auf ihren Entschluss, ob sie in die Heimath zurückkehren und in derselben ihren dauernden Aufenthalt nehmen wollen. Es werden nur sehr wenige sein, welche mit der Aussicht, der Militärflicht neu unterworfen zu sein, wieder ihren dauernden Aufenthalt in der Heimath nehmen wollen. Wenn Sie blos den Text des Vertrages lesen, so werden Sie nicht zu dieser Auffassung gelangen, wie sie nach dem eben Ausgeführten in der Denkschrift beinahe mit ausdrücklichen Worten angegeben ist. In jedem Falle aber ist es zu wünschen, dass die Regierung, mag sie der einen oder der andern Ansicht sein, um diesen Punkt klar zu stellen, eine Erklärung darüber abgebe, welche ganz deutlich feststelle, ob nach der diesseitigen Auf-

fassung der Zurückgekehrte, welcher sofort dauernd seinen Aufenthalt hier nimmt, wiederum der Militärpflicht unterworfen wird, oder ob er auch dann der Militärpflicht entzogen bleibt, indem dieser Theil der Pflicht nicht mehr auflebt, sondern nur solche Pflichten geltend bleiben, welche nach seiner Rückkehr und der Wiedererlangung des Bürgerrechts entstehen.

Präsident: Der Herr Bundeskanzler hat das Wort.

Bundeskanzler *Graf von Bismarck-Schönhausen:*

Ich bin der Meinung, dass nach dem Sinne des Vertrages derjenige, welcher freiwillig nach Norddeutschland zurückkehrt, sich in der Lage eines freiwillig Einwandernden befindet. Wenn dieser freiwillig Einwandernde sich noch in dem in Norddeutschland militärpflichtigen Alter befindet, wird ihm auch als norddeutscher Bürger (Ruf: *Sehr richtig!*) diejenige Pflicht für das Land zufallen, welche mit diesem Alter für den Norddeutschen Bürger verbunden ist (Beifall).*

Präsident: Der Abgeordnete Dr. *Schleiden* hat das Wort.

Abgeordneter Dr. *Schleiden:* Fürchten Sie nicht, meine Herren, dass ich die Sache irgend weiter erörtern werde. Ich halte es auch durchaus nicht für nöthig, mich gegen den Seitenhieb zu vertheidigen, welchen es dem Herrn Bundeskanzler gefallen hat, gegen mich zu führen, als ob ich geneigt sei, die Vorlage des Bundesrathes bloß deshalb zu bemängeln, weil sie von dieser Stelle käme. Dies ist nicht der Fall und ich fühle mich dadurch nicht getroffen. Ich wünsche nur zu constatiren, dass ich recht daran gethan habe, dass ich die einzelnen Artikel des Vertrages dem Wortlaute nach zu interpretiren versucht habe. Sie wissen, man hat den Diplomaten oft Schuld gegeben, dass sie die Worte des Fürsten Talleyrand zum Vorbild nehmen: die Sprache sei nur dazu da, um die Gedanken zu verbergen. Dieser Vertrag hat, wie sich aus der bisherigen Discussion deutlich ergibt, jedenfalls zu starken Missdeutungen nur wegen seiner Fassung Anlass gegeben. Ich bitte ferner constatiren zu dürfen, dass die Erklärungen, welche von der Bundesrathsbank erfolgt sind, vollständig mit der-

* Count *Bismarck:* „My opinion is that, according to the sense of the treaty, he who returns voluntarily to North Germany, places himself into the situation of an immigrant by his own and free will. *If this volunteer immigrant is of an age which imposes military duty upon him, the duty will devolve upon him, as a North German citizen, which is attached to the North German citizen of that age.*“ (Approbation of the House.)

jenigen Interpretation, welche ich dem Vertrage gegeben habe, in jedem einzelnen Punkte übereinstimmen. Gegen den Herrn Abgeordneten Dr. Loewe bemerke ich nur, dass ich nicht zu denjenigen gehöre, welche in irgend einer Weise angedeutet haben, es sei die Tendenz der Amerikanischen Regierung und Bevölkerung, die Naturalisationsfrist abzukürzen. Ich bin in diesem Punkte ganz mit ihm einverstanden und glaube auch, dass dies aus meinem Correferate deutlich hervorgeht.

Präsident: Der Abgeordnete Dr. Loewe hat das Wort.

Abgeordneter Dr. *Loewe*: Ich bin erfreut gewesen, dass eine ohne Zweifel unklare Aeusserung meinerseits den Herrn Bundeskanzler zu einer so bestimmten Erklärung veranlasst hat über die Stellung, welche der zurückkehrende Deutsch-Amerikanische Bürger einnimmt, der vorzeitig ausgewandert ist und zwar ohne Erlaubniss in Bezug auf seine Militärpflicht. Ich schliesse daraus, dass der hierher Zurückkehrende als Amerikanischer Bürger und auch später, wenn er wieder aufgehört hat, Amerikanischer Bürger zu sein, nicht dafür zur Strafe gezogen werden kann in der einen oder andern Weise, dass er sich der Militärdienstpflicht entzogen hat. Ich stimme aber mit dem Herrn Bundeskanzler vollständig darin überein, dass derjenige, welcher zurückkehrt, alle Pflichten hier zu leisten hat, welche seinem Alter und seiner Stellung zukommen, in welcher er wieder Bürger geworden ist und dass in dieser Beziehung das frühere Verhältniss, welches er zu dem Amerikanischen Staat gehabt hat, von keiner Bedeutung ist. Aber das möchte ich bestimmt feststellen, dass der Herr Bundeskanzler zu meiner Freude sich dahin erklärt hat, dass die Verfolgung wegen unbefugter Auswanderung nicht eintreten kann, auch wenn er aufgehört hat, Amerikanischer Bürger zu sein*.

* Dr. *Loewe*: „I fully agree with the Chancellor of the Confederation in this that he who returns has to fulfil all the duties which devolve upon his age and his position, when he has again become a citizen, and that in this respect the former relation he has had towards the American state, becomes null and void. But I wish to have it precisely stated that the Chancellor has declared, to my joy, that a persecution on account of unlawful emigration cannot take place, even when he has ceased to be an American citizen.“

(Count Bismarck gives the desired declaration with the slight hit upon America which Mr. Bancroft reports in his correspondence below.)

Präsident: Der Herr Bundeskanzler hat das Wort.

Bundeskanzler *Graf von Bismarck-Schönhausen:* Ich gebe diese von dem Herrn Vorredner gewünschte Erklärung und könnte es fast so ausdrücken, dass wir die fünf Jahre Abwesenheit in Amerika, verbunden mit der Gewinnung des Amerikanischen Bürgerrechts, als eine Erfüllung der Militärpflicht dem Norddeutschen Bunde gegenüber behandeln (Heiterkeit), wenn der neuamerikanische Bürger nicht durch seine rechtzeitige Wiederkehr eine neue Militärpflicht gegen den Norddeutschen Bund eingeht.

Präsident: Der Abgeordnete Lasker verzichtet auf das Wort.

Es hat sich Niemand weiter über die Vorlage unter Nro. 8 zum Wort gemeldet; auch die Herren Referenten verlangen das Wort nicht noch einmal. Ich bringe also den vorliegenden Vertrag in seinen gesammten sechs Artikeln zur Abstimmung. Die Verlesung desselben wird mir wohl erlassen werden (Zustimmung).

Darf ich mir wohl die Bemerkung erlauben, dass in dem Antrage der Referenten hier, wie bei der nächsten Nummer der Tagesordnung das Wort „verfassungsmässige *Zustimmung*“ gewählt ist. Die Verfassung des Norddeutschen Bundes, Artikel 11, sagt, gerade wie das Anschreiben des Herrn Bundeskanzlers „verfassungsmässige *Genehmigung*“. Ich möchte anheimstellen, den Ausdruck der Verfassung dem Ausdrucke der beiden Herren Referenten zu substituieren.

(Zustimmung Seitens des Referenten und Correferenten.)

Diejenigen Herren, die dem unter Nro. 8 der Drucksachen vorliegenden Vertrage zwischen dem norddeutschen Bunde und den Vereinigten Staaten von Amerika, betreffend die Staatsangehörigkeit derjenigen Personen, welche aus dem Gebiete des einen Theils in das des andern einwandern, die *verfassungsmässige Genehmigung* ertheilen wollen, bitte ich, sich zu erheben. (Geschieht.)

Das Haus ist diesem Antrage der Referenten *fast einstimmig beigetreten*.

IV.

THE TREATY

BEFORE THE HOUSE OF REPRESENTATIVES, AFTER BEING CONFIRMED
BY THE U. S. GOVERNMENT AND THE SENATE, AT WASHINGTON. —
OFFICIAL DOCUMENTS, AND CORRESPONDENCE OF M^R. BANCROFT
WITH THE STATE DEPARTMENT, ETC. ETC.

40th Congress } **HOUSE OF REPRESENTATIVES.** { Ex. Doc.
2^d Session. } { No. 245.

TREATIES WITH GERMAN STATES.

MESSAGE

from the

President of the United States, in answer to a Resolution
of the 19th ult^o relative to correspondence and negociation relating
to the rights of naturalized citizens of the German states.

April 4, 1868. — Referred to the Committee on Foreign Affairs and ordered
to be printed.

TO THE HOUSE OF REPRESENTATIVES:

I transmit to the House of Representatives, in further answer
to their resolution of the 9th ultimo, the accompanying report from
the Secretary of State.

Washington, Apr. 2, 1868.

ANDREW JOHNSON.

Department of State. Wash. Apr. 2, 1868.

The Secretary of State, in further answer to the resolution of
the House of Representatives of the 9th ult^o, directing him to furnish
to that body copies of all „correspondence, negotiations and treaties
had or made with any of the German states since the first day of
January last, relating to the rights of naturalized citizens“ now has
the honor to lay before the President the papers specified in the
accompanying list.

Respectfully submitted:

WILLIAM H. SEWARD.

The President.

List of papers relating to the rights of natur^a citizens.

N ^o 31. Mr. Bancroft to Mr. Seward, Jan. 21. 868.	N ^o . 41. Mr. B. to Mr. S. Febr. 14, 68.
33. " " " " " " 23. "	43. " " " " " " 21
39. " Seward " " Bancr. Febr. 10. "	44. " " " " " " 22
41. " " " " " " 13. "	50. " S. " " B. Mch. 7
44. " " " " " " 13. "	51. " " " " " " 10

M^R BANCROFT TO M^R SEWARD.

N^o 31.

American Legation,

Berlin, January 21, 1868.

Sir: To-day I am able to report to you progress in the settlement of the question respecting the right of the adopted American citizen to immunity from military service in Prussia.

Immediately after the proceedings, of which I gave an account in my number 9, letters of inquiry were sent to the principal foreign legations of Prussia. In due time answers were received. That from France was such as I could have wished on the essential points. That from England was imperfect, its writer not having been familiar with the usage of the British government previous to the recent prohibition by law of the impressment of marines; but as the answer otherwise had nothing adverse to our wishes, I did not think it worth the while to add anything to what I had already communicated on that subject.

The next step was for the foreign department to take the opinions of the minister of war and the minister of internal affairs. They were both adverse. I was told that I might discuss the subject with the ministers and directors of those departments, and was rather invited to do so. An occasion offered of speaking with the present head of the war department. His expressions of regard toward the United States were all that could be wished. He disclaimed any thought of holding an adopted American citizen to service in the Prussian army; but he wished to leave the present law unaltered, that the subject might be under control. He expressed not merely the willingness but the desire that exemption should be granted as each individual case should arise.

I spoke of these answers at the foreign department, expressing a belief, that, as the objections of the war department related chiefly to form, they might be overcome, and it proved so.

The minister of the interior raised a question of the Prussian constitution and the Prussian law as being opposed to the request of the United States. I thought it not safe to discuss with a domestic minister of state the interpretation of the laws of his own country, for it would belong to him of right to interpret those laws at least for the guidance of his own government. My answer on this point was, therefore, that whatever might be the laws of Prussia, they must be considered as final only for Prussians, and the relations of a foreign power were a proper subject for a convention. This answer on my part met with no objection from any quarter.

Meantime the subject had been constantly brought before the attention of Count Bismarck himself, and he became interested in it. A new law was draughted which would greatly facilitate the concessions which the President desires, and I was asked not to urge the question until that draught should be finished. The matter was thus in the very best way. On the draught of the new law, and before its adoption, the interior department withdrew its objections, and I believe Count Eulenberg now lends his hearty co-operation to the policy of his colleague. Nothing remained but to get the consent of the king, and last Saturday evening Count Bismarck informed me that he had brought the subject before the king and that the king had given verbally his concurrence. That assent will, according to the usages of this government, be given formally in writing, and then we shall proceed to settle the convention.

I have thought that sufficient progress has been made to justify this report. — At the same time I desire you and the President not to regard the matter as settled until the convention in all its details shall be formally agreed upon; and in the mean time I would request that this despatch be kept from the press, though there is no reason why the substance of it should not be made known to any one you may judge entitled to the communication.

I remain, Sir, sincerely yours,

GEORGE BANCROFT.

Hon. William H. Seward, &c. &c.

M^R BANCROFT TO M^R SEWARD.N^o 33.*American Legation.*

Berlin, January 23, 1868.

Sir: Your letter N^o 33, of January 6, has been received.

Count Bismarck informs me that the British government has inquired of him as to the answer the Prussian government would make to the American government on the subject of naturalization. In reply he informed them of the intention of this government to come to an understanding with that of America, according to its request. The remarks of Count Bismarck implied that the British government is inclined to follow the example of the Prussian, and that the settlement of the question here will be virtually a settlement for Great Britain.

In the prosecution of this business to a settlement there is need of great patience, as the several departments interested in the measure have to be consulted and to propose their difficulties and desired modifications. Some time must therefore pass away before the negotiations can be closed I remain, Sir, sinc. yours

GEORGE BANCROFT.

M^R SEWARD TO M^R BANCROFT.N^o 39.*Department of State.*

Washington, February 10, 1868.

Sir: Your despatch of the 21st of January, N^o 31, marked private, has been received.

The President is pleased with the progress which you report in the negotiation towards the convention for modifying the law concerning the obligation of military service in the case of Prussian subjects naturalized in the United States. Your counsel and wishes in this respect are approved and will be complied with.

I am, Sir, your obedient servant,

WILLIAM H. SEWARD.

George Bancroft, Esq. &c. &c., Berlin.

M^R SEWARD TO M^R BANCROFT.N^o 41.*Department of State.*

Washington, Febr. 13, 1868.

Sir: Your despatch of the 23^d of January, N^o 33, has been received. — I thank you for your attention manifested in informing me of what has passed between the governments of Great Britain and Prussia concerning the question on the naturalization laws existing between the United States and those two governments respectively. I have informally suggested to the British minister here that a proceeding in a form of mutual or common legislation in the two countries would be more simple and probably easier than formal negotiations, inasmuch as there are so many other questions which urgently require settlement between the United States and Great Britain besides that of the conflicting naturalization laws. Perhaps it would be well for you to speak in the same sense to the British ambassador at Berlin.

I am, Sir, your obedient servant,

WILLIAM H. SEWARD.

George Bancroft, Esq. &c. &c., Berlin.

M^R SEWARD TO M^R BANCROFT.N^o 44.*Department of State.* W. Febr. 13, 1868.

Sir: Your despatch of the 24th of January, N^o 34, has been received. — The progress you have made in negotiating for a settlement of the rights of naturalized citizens of the U. S. in Prussia and in Germany is highly gratifying. A proper power will be prepared and sent you without delay. In accordance with your suggestion, it will embrace the subject of proper treaty arrangements with the North German States, concerning commerce, navigation; and and extradition.

I am, Sir, &c: &c.

W. H. SEWARD.

George Bancroft, Esq. &c., Berlin.

P. S. — The power referred to above is herewith enclosed.

M^R BANCROFT TO M^R SEWARD.N^o 41.*American Legation.*

Berlin, Febr. 14, 1868.

Sir: Yesterday I had an official meeting with Mr. König, who has received full powers to settle with me the question relating to the naturalization of Germans in America.

I proposed to him these terms: First. Germans and Americans may reciprocally emigrate. Secondly. Naturalization after five years' residence changes nationality and releases from military duty. Thirdly. Naturalisation till after a residence of five years shall not be binding on the original country. Fourth. Naturalization shall not be an excuse for desertion from military service actually entered upon, but shall free from all liabilities for eventual service, not due at the time of emigration. Fifth. A naturalized citizen returning to his native country with intent to resume his domicile therein and proving his intention by a continuous residence of, shall not be entitled to the interposition, respectively, of the United States or of North Germany.

Mr. König received the proposals with general assent, and, in return, offered to send me a draught of a treaty. This offer I the more cheerfully accepted, as up to this time I had nothing from the department in writing. In the evening I received the draught. Mr. König appears to me to have impaired the clearness of the paper, by a desire, as far as he could, to avoid a glaring conflict with ancient law, but in substance his project seems to me to offer a basis for the settlement of the questions in discussion. The right of expatriation is conceded. The Prussian law would wish American citizenship not to be obtainable by a Prussian except after a ten years' absence; but Count Bismarck will accept our American rule of five years' continuous residence, as it has been established by law since 1795.

The second section may need explanation. Mr. König remarked that he wished me to meet the case of the fugitive from justice who, if he chanced to get naturalized in America, could not be demanded under the extradition treaty, and who must remain liable for his old offences if he should return to Germany.

The third section explains itself, and has no obscurity. The fourth is right in principle. If a naturalized German turns his back

on America, and makes Germany once more his permanent domicile, he should submit to the laws of the country of his choice.

I remain, Sir, sincerely yours,

GEORGE BANCROFT.

*Hon. Wm. H. Seward,
Secretary of State.*

PRIVY COUNCILLOR KÖNIG TO M^R BANCROFT.

(TRANSLATION COPY.)

Berlin, Febr. 13, 1868.

I have the honor, in pursuance of our understanding, to transmit, respectfully, to your Excellency the enclosed project for a treaty.

I beg you to consider this project as a suggestion merely, not binding, as I have not yet submitted it to Count Bismarck, and have received, as yet, no instructions respecting it.

With sentiments of the most distinguished consideration, your excellency's obedient servant,

KÖNIG.

(TRANSLATION.)

1. Members of the North German Union who acquire the right of citizenship in the United States of America, shall in their relation to the North German Union, and citizens of the U. S. of Am. who acquire membership in the territory of the N. G. U. shall in their relation to the U. S. of Am., enjoy the full operation of their naturalization only after an uninterrupted residence of five years in the country in which they are naturalized; so that a German naturalized in America who, before completion of his five years residence there, returns to the territory of the N. G. U. can be required to discharge all the public duties which the laws of the same impose upon him, without any objection thereto being made by the government of the U. S.; while, in like manner, an American naturalized within the territory of the N. G. U. who, before completion of his five years' residence there, returns to the U. S., can be required to discharge all the public duties which the laws of the same impose upon him, without objection thereto being made by the said Union.

The mere declaration of the citizens and members of the one country of a wish to become, respectively, citizens and members of the other, has not the effect of naturalization.

2. Naturalization in the territory of one of the contracting parties does not prevent the person naturalized from being, upon his return to the territory of the other, subject to trial and punishment on account of any punishable acts committed before emigration.

3. The terms of the present treaty do not affect the agreements in article 3 of the convention of June 16th, 1852, between Prussia and the other states of the German Union on the one side, and the U. S. of Am. on the other, concerning the delivery up in certain cases of criminals fugitive from justice. The said treaty will hereafter be applicable to all states of the N. G. U.

4. If a German naturalized in America returns to the territory of the N. G. U., and settles there permanently, he shall have no claim upon the protection of the government of the United States. In like manner the American naturalized in the territory of the North German Union who returns to the U. S. and permanently settles there, shall have no claim upon the protection of the North German Union.

The intention to take up a permanent residence shall (soll) be regarded as existing when the person naturalized resides for more than two years within the territory of the other party.

5. The present treaty goes into effect and continues in force till If neither party gives notice to the other six months before of its intent to terminate the same, it shall be deemed in force until twelve months after one of the contracting parties shall give notice to the other of such intention.

6. The present treaty shall be ratified by the King of Prussia in the name of the N. G. U., with consent of the Council of the Union, and the approval of the Imperial Diet; and by the President of the U. S. by and with the consent of the Senate; and the ratifications shall be exchanged at Berlin within months of the present date.

M^R BANCROFT TO M^R SEWARD.

N^o 43.

American Legation. Berlin, Febr. 21, 1868.

Sir: Yesterday morning I received your despatch N^o 38, containing the supplementary letter accrediting me to the government of the N. G. U. The receipt of it enblead me at once to complete the pending treaty on naturalization, and I hope to be able to send it

to you, signed and sealed for ratification by the President and Senate, next week. My draught was adopted except in the second article. That article as it new stands reads as follows:

„A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration: saving always the limitation established by the laws of his original country.“

The limitation in the case of deserters was, not unreasonably, objected to.

The right of emigration is established, and the release of the emigrant from future claims to his military service dates not from the moment of his naturalization, but from the moment of his emigration. This settles the point raised by prince Hohenlohe, in our favour and against the view adopted by the Bavarian government. All is granted that our government ever asked for.

The letter I send for the information of yourself and the President. I shall accompany the treaty with all the necessary explanations.

Your despatch N° 34 has not yet been received.

I remain, Sir, yours sincerely,

GEORGE BANCROFT.

Hon. Wm. Seward, &c. &c.

M^R BANCROFT TO M^R SEWARD.

N° 44.

American Legation.

Berlin, Febr. 22. 68.

Sir: I hold of good augury that the treaty between the U. S. and North Germany respecting the effect of naturalization has been signed on Washington's birthday.

Immediately upon entering upon my office I gave attention to this subject, respecting which your instructions were so full as to leave nothing to desire. I was met in the most friendly spirit. If we had followed the standard books on international law we could have come to no result, for they fail in the great point of the right of the naturalized citizen to maintain his new citizenship in his old country. The opinions of the lawyers of the U. S. are, as you so well know, in conflict with each other. The laws in Prussia and

in the U. S., interpreted according to the letter, were also in conflict. To succeed it was necessary to consider the principles underlying the laws of the two countries, and here there was found to be a remarkable harmony. The disposition of the foreign department to comply with our wishes was made known to me by Messrs. von Philipsborn and König, in my interview with them on the 18 day of September last.

Nothing then remained but to remove difficulties growing out of the previous administrative system of Prussia; and there could have been no progress had not the chiefs in the department of war and the interior discussed the questions which arose with a candid desire to remove every obstacle. Count Bismarck, from the first, took a large and liberal view of the case; but with all this the difficulties were numerous and grave. I made it my rule throughout to avoid controversy and not to precipitate a decision.

On the question of the right of expatriation there arose no discussion. It is recognized by the laws of both countries.

On the question of residence and as a condition of naturalization, which the mother country should respect, there existed no difference.

The time of residence was a point of more delicacy. The Prussian law required an absence of ten years; ours a residence of five. With liberality and frankness Count Bismarck declared himself willing to accept the American rule, at it had received the sanction of the administration of Washington, and had become fixed by the usage of more than threescore years and ten.

Should the U. S. see fit for its own purposes, as lately in the act of July 17, 1862, to concede naturalization on a shorter residence, their right to do so is not impaired; but the meaning of this treaty is, that they will not ask North Germany to recognize such a naturalization till the adopted citizen shall have completed the term of residence now required by their normal law.

A question has arisen at what time the emigrant shall be released from liability to military service, whether from the moment of his emigration or of his naturalization. The object of this government is a real, permanent, friendly adjustment of all questions that have been raised; and it has, therefore, in the second article agreed that the emigrant on his return shall not be called to account for the non-performance of any military duty to which the liability may arise subsequent to his emigration.

The third article establishes the principle that a North German, who, in conformity to the terms of the first article, has been received as an American citizen is no longer liable to extradition.

The fourth article is intended to prevent insincerity in the transfer of allegiance. A German naturalized in America and returning to Germany for two years does not necessarily renounce his American citizenship; only he may be called upon to declare his purpose explicitly.

The fifth and sixth articles require no explanation.

I trust the President and Senate will unanimously approve what I have done, and that the ratification of the treaty herewith enclosed will be immediately returned for the necessary exchange. The result is to be ascribed to the hereditary disposition of this government, unaltered from the days of the great Frederic and Franklin, to cherish the best relations with us; and to the mutual desire that the first important transaction between the U. S. of America and the U. S. of North Germany may bear indelible marks of a disposition to recognize and perpetuate the natural friendship of the two countries.

I remain, Sir, yours sincerely

GEORGE BANCROFT.

Hon. Wm. H. Seward,
Secr. of St.

M^R SEWARD TO M^R BANCROFT.

N^o 50.

Department of State. Wash., March 7, 68.

Sir: I have your despatch of the 14th of Febr., N^o 41, and also your private note of the 20th of February.

The President believes that the treaty, in the form it is understood to have been adopted, will prove satisfactory, but a definite expression of his views is reserved until the arrival of the treaty, which even now is due. In the meantime I have pleasure in assuring you of his commendation and felicitation.

I am, Sir, your obedient servant,

WM. H. SEWARD.

George Bancroft, Esq. &c. &c., Berlin.

M^R SEWARD TO M^R BANCROFT.N^o 51.*Department of State.* Wash., March 10, 1868.

Sir: Your despatch of the 22^d of Febr., N^o 44, accompanied by the naturalization treaty, is this day received. I have sent, by telegraph, a despatch, as follows:

Received, approved, submitted to Senate.

The treaty meets the entire approval of the President. Your history of the negociation is very interesting, and it will be laid before the Senate when called for. I sincerely hope the treaty may receive an early ratification. — I am, Sir, your obd^t serv^t

W^M. H. SEWARD.

George Bancroft, Esq. &c. Berlin.

V.

40th Congress
2^d Session.

S E N A T E.

Ex. Doc.
N^o 51.

M E S S A G E
OF THE
PRESIDENT OF THE UNITED STATES,
COMMUNICATING
INFORMATION CONCERNING THE NATURALIZATION TREATY
RECENTLY NEGOTIATED
BETWEEN THE
UNITED STATES AND NORTH GERMANY.

April 27, 1868. — Read, referred to the Comitty on Foreign Relations
and ordered to be printed.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

I submit a report of the Secretary of State concerning the naturalization treaty recently negotiated between the United States and North Germany.

Washington, D. C., April 27. 1868.

ANDREW JOHNSON.

Department of State.

Washington, April 27, 1868.

The despatch of Mr. Bancroft, a copy of which is herewith submitted, relieves the treaty recently negotiated between the United States and North Germany of some injurious misapprehensions which have hitherto existed, and I respectfully submit the expediency of communicating the despatch to Congress.

WILLIAM H. SEWARD.

The President.

No 51.

American Legation.

Berlin, April 3, 1868.

Sir: That no doubt might exist of the correctness of my interpretation of our treaty with North Germany, as communicated to you in my despatch of February 22, I left a copy of that despatch at the Foreign Office, and no objection whatever was made to its contents*.

The report made upon the treaty by the committee of the North German Council was not well digested, and was not wholly free from ambiguity.

Yesterday the treaty came up for acceptance in the Imperial Diet. Mr. König, in the first instance, and then Count Bismarck, took the occasion publicly, and in the clearest and most emphatic manner, to confirm my interpretation of it in every particular.

Ex-Consul Meier, the member from Bremen, to whom the President of the Diet had referred the treaty, one of the first merchants of Europe, and well known in America from his long residence among us, reported the treaty to the Diet with the „full conviction“ of its merits. He declared his peculiar satisfaction that the natural right of emigration and change of nationality was for the first time made a part of recognized international law by North Germany and the United States.

Dr. Schleiden, so well known to you from his long residence as minister at Washington, not omitting to make some cavils at what he called „small defects“, spoke substantially and heartily for

* Just as little as on the part of Mr. Bancroft, when the Prussian interpretation was made in the Reichstag, in his presence. M.

the treaty and for the most liberal interpretation of its terms, describing it as great progress in international intercourse.

A discussion arose which brought out a full interpretation of its several articles.

Mr. König, the plenipotentiary who signed the treaty on the part of North Germany, in explanation of the first article, said that a five years' continuous residence in America, and no more, was all that the treaty required in regard to residence.

The chancellor of the confederation, Count Bismarck, spoke on the same point, declaring that the words of the article were too plain to be misunderstood, that the period of five years was to date from the moment when the emigrant should cross the American line, and that the continuity of residence which was required was to be interpreted „*nicht in körperlichem, sondern in juristischem Sinne*“, not in a corporal, but in a legal sense.

The interpretation of the second article of the treaty was equally explicit. Dr. Schleiden, of the committee of the Diet, reported that inasmuch as the liability of the naturalized citizen on his return to his original country extended only to breaches of law committed *before* emigration, it followed that any breach of the law which might be committed by emigration itself was excluded from the class of punishable actions.

This view was confirmed by Mr. König, who pointed out that, as the emigrant remained liable only for acts committed *before* emigration, emigration itself, and the consequent withdrawal from military duty, could not be included among such acts. „So then“, said Dr. Loewe, one of the ablest members of the Diet, and well known as a long and esteemed resident of New York, „the hateful military business is now put aside, and the emigrant on his return is not liable to arrest for the violation of the military duty from which he had withdrawn by emigration.“ While he fully accepted the explanation of Mr. König, Dr. Loewe still intimated a wish that it might be confirmed by Count Bismarck himself. The chancellor immediately arose and replied as follows:

The gentleman, who has last spoken fears that a person who has lived five years in America and been naturalized there may yet, on his return here, be held to military duty. This apprehension I can designate as perfectly and absolutely unfounded. The literal observation of the treaty includes in itself that those whom we are

bound to acknowledge as American citizens cannot be held to military duty in North Germany. That is the main purpose of the treaty — whosoever emigrates *bona fide* with the purpose of residing permanently in America, shall meet with no obstacle, on our part, to his becoming an American citizen, and his *bona fides* will be assumed when he shall have passed five years in that country, and, renouncing his North German nationality, shall have become an American citizen. I believe, therefore, that no room has been left open for the anxiety that has been expressed, and I lay great stress upon here placing the subject in its true light.

Dr. Loewe questioned the chancellor once more, saying: „To my joy I think I may understand the chancellor to say that no prosecution for unauthorized emigration can take place, even if the emigrant shall have ceased to be an American citizen.“ Count Bismarck replied: „I herewith confirm the declaration which the gentleman desires, and“, he added, jocosely in form, seriously in substance, „I might almost assert that we will treat the five years' absence in America, when connected with naturalization, as a fulfilment of the military duty in the North German Confederation.“

The fourth article of the treaty came also under consideration. Mr. Lasker, one of the ablest members of the Diet, inquired whether the German naturalized in America and returning to Germany would, after two years' residence in Germany, be held liable to military duty. The text of the treaty, he said, gave no color to such an interpretation, but the report of the council of the confederation was ambiguous, and therefore he called upon the chancellor for a nearer explanation.

In the beginning of the debate ex-Consul Meier had most clearly explained that the American law required from the person who becomes naturalized a total renunciation of his allegiance to any other power. Holding fast to this fact, Count Bismarck replied that the German-American citizen, on resuming his relations as a citizen of North Germany, would under the treaty, stand in the light of a foreigner emigrating into North Germany; that he could not be held to the discharge of any *old* military duty, but only to such *new* military duty as would attach to every foreigner emigrating into North Germany and becoming naturalized there.

The President now put the question on the acceptance of the treaty, and the whole Diet, with the exception of two or three Poles,

who, as it seemed to me, only declined voting, rose to their feet with alacrity. All the proceedings were marked by the disposition to cherish the most friendly relations with the United States.

I send you herewith the debate as it appeared concisely in the North German Gazette of last evening, and in the National Gazette of this morning. On the fourth article I will add a few words. The American law exacts from the citizen who becomes naturalized a perpetual renunciation, by oath, of his former nationality. Hitherto the Prussian government has made no formal recognition of our naturalization laws, but now that it becomes bound by treaty to respect them, it could not have restored the returning Americo-German to his German citizenship had not the consent of the United States to his release from his obligation to them been given, as it is given, by the fourth article of this treaty.

I remain, Sir, yours sincerely,

GEORGE BANCROFT.

Hon. William H. Seward,
Secretary of State, &c. &c.

VI.

THE PRESS

ON THE NORTH - GERMAN TREATY.

1. *Frankfurter Zeitung*, Nro. 105. *Erstes Blatt*. *Mittwoch April 28. 1868.*

Amerikanisch-Norddeutscher Vertrag *. — Weiter unten bringen wir einen Auszug aus einem Briefe Bancroft's, worin derselbe aus-
einandersetzt, wie der deutsch-amerikanische Vertrag werde aus-
gelegt werden. Es ist dazu zu bemerken, dass der ehrenwerthe Ge-
sandte das nicht wissen kann. Derselbe ist allerdings vollkommen

* **American-Northgerman Treaty.** — We give below an extract from a letter of Mr. Bancroft's, by which this gentleman explains how the German-American treaty will be interpreted. We think it necessary to observe, in addition to said explanation, that the Honorable Envoy is not in a position to know that. He is perfectly competent to say how *he* on his part under-

competent, zu sagen, wie *er* seinerseits die Bestimmungen des Vertrags auffasst, was *er* sich dabei gedacht hat, aber durchaus incompetent, für die Interpretation, welche z. B. die preussische Verwaltung den Paragraphen des Vertrages angedeihen lassen wird, einzustehen. Der *Wortlaut des Tractats*, nicht die Auslegung des jeweiligen Gesandten der Union ist das Bindende und Massgebende. Wenn Herr Bancroft übrigens bei der Bestimmung des § 4 jenes Vertrags, welche von dem Verzicht naturalisirter Bürger auf die Naturalisation, resp. dem Verluste der letzteren, handelt, wirklich jenen Sinn im Auge gehabt hat, den er in dem untenstehenden Schreiben entwickelt, so hätte er dies gar nicht unverständlicher ausdrücken können, als er es in dem fraglichen Paragraphen gethan. Es ist geradezu komisch, wenn Bancroft die Sätze des Vertrags:

„Weun ein in Amerika naturalisirter Deutscher sich wieder in Norddeutschland niederlässt, ohne die Absicht, nach Amerika zurückzukehren, so soll er als auf seine Naturalisation verzichtend angesehen werden.“ —

„Der Verzicht auf die Rückkehr kann als vorhanden angesehen werden, wenn der Naturalisirte des einen Theils sich länger als zwei Jahre in dem Gebiete des andern Theils aufhält“

stands the regulations of the treaty, what *he* thought in making it, but he is entirely incompetent to answer for the interpretation which the Prussian administration will give to the paragraphs of the treaty *. *The words of the treaty, not the interpretation of the envoy pro tem. of the United States* is that which binds the treating parties and lays the rules of their conduct. If Mr. Bancroft, in laying down the regulation of § 4 of said treaty, which treats of the renunciation of naturalized citizens of their naturalization, and respectively of the loss of the latter, has really had in mind the meaning to which he gives expression in his letter below, *he could not* — we beg leave to say — *possibly have expressed that meaning in a more unintelligible manner* than he has done in said paragraph. It is downright comical, if Bancroft interprets the alineas of the treaty, which follow:

„If a German naturalized in America renews his residence in North-Germany, without the intent to return to America, he shall be held to have renounced his naturalization in the United States.“ —

„The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country“,

* The debatee in the North-German Reichetag and the interpretation of the treaty by the Prussian Government, which we have given above, were not known to the public when the article was written. M.

dahin interpretirt, dass der naturalisirte Amerikaner in Deutschland als Fremder wohnen kann, so lange es ihm beliebt, ohne sein amerikanisches Bürgerrecht aufzugeben.

Frankfurt, 14. April. Im Betreff des Norddeutsch-Amerikanischen Vertrags liegt uns der Auszug eines Briefes, den Bancroft an einen Freund gerichtet hat, vor, dem wir Folgendes entnehmen:

„Der vierte Artikel des Vertrags zwischen den Vereinigten Staaten und Norddeutschland muss ausgelegt werden, *erstens* nach dem Zweck des Vertrags, welcher kein anderer ist, als freundliche Gesinnungen bei verwandten Nationen zu erhalten, und *zweitens*, nach der Clausel, welche verspricht, dass naturalisirte Norddeutsche in Norddeutschland als Amerikanische Unterthanen behandelt werden sollen. Jeder Amerikanische Deutsche, der zwei Jahre in Norddeutschland wohnt, der wünscht, in sein Norddeutsches Bürgerrecht zurückzutreten, kann dies mit der Erlaubniss des Königs thun; andernfalls und als Regel kann der naturalisirte Amerikaner in Deutschland als Fremder wohnen, so lange es ihm beliebt, ohne sein Amerikanisches Bürgerrecht dadurch aufzugeben; es wird nur von ihm erwartet, dass

in this manner, that the naturalized American is permitted to live in Germany, as a foreigner, as long as he pleases, *without* renouncing his American naturalization.

Frankfort, Apr. 14. — We have before us the extract from a letter, which Mr. Bancroft has written to a friend about the North-German and American treaty, from which we copy the following passages:

„The fourth article of the treaty between the United States and North Germany must be interpreted as follows: first, according to the purpose of the treaty, which is no other than that to favor kind feelings with nations with which we are in friendly relations, and second, according to the clause, which promises that Northern Germans naturalized in America shall be treated as American subjects (1?)*. Any German American who resides two years in Germany, and who wishes to return to his North-German allegiance, can do so with the permission of the king; on the other hand, and as a rule, the naturalized American can live as a foreigner in Germany as long as he pleases, without renouncing, by doing so, his American naturalization; he is expected,

* Whose subjects? Mr. Johnson's? — Not having seen the original of Mr. Bancroft's letter, we must allow him the benefit of the possibility of a mistake in the translation; though we scarcely see how the word „citizen“ could have been translated by „subject“.

er die Gesetze des Landes beobachtet, in welchem er seinen Aufenthalt wählt, und wenn ihm diese Gesetze nicht gefallen, kann er nach seinem Adoptivlande zurückkehren oder sich dahin begeben, wo es ihm zu wohnen gefällt.“

2. *The Illinois Staatszeitung of June 23^d has the following article from the Augsburger Allgemeine Zeitung, by its New York correspondent:*

Der Bancroft'sche Vertrag*.

Der jetzt ratificirte Vertrag zwischen den Vereinigten Staaten und dem Norddeutschen Bunde findet, nachdem die Debatte im Reichstag darüber bekannt geworden, unter den Deutschen hier nicht mehr die freundliche Aufnahme, wie vorher. Zwar haben die am 2. April von Herrn von Bismarck gegebenen Erklärungen den *einen* Punkt sicher gestellt: dass ein vor Erfüllung seiner Militärpflicht Ausgewandelter bei seiner etwaigen Rückkehr als amerikanischer Bürger weder in's Militär gesteckt, noch für seine „vorzeitige“ Auswanderung bestraft werden soll. Da in Betreff des letzteren Punktes noch Zweifel bestehen konnten, so ist es dankenswerth, dass diese Zweifel nun beseitigt sind. Dagegen hat der § 4 des Vertrags nicht hlos von Herrn von Bismarck, sondern auch von allen Rednern im Reichstag eine Auslegung erfahren, welche hier nimmermehr angenommen werden kann, und die, wenn man deutscherseits darauf beharrt, hinnen wenigen Jahren zu den schwersten Reibungen Anlass geben muss.

of course, that he observe the laws of the country where he chooses his residence, and if he dislikes those laws, he can return to the land of his adoption or go to reside wherever he may please.“

* **The Bancroft Treaty.** — The treaty (now ratified) between the United States and the North-German Confederation does not meet, after the debate in the Diet has become known, from the Germans of this city, with the same friendly reception as before. It is true that the explanations given by Count Bismarck on the 2^d of April have settled this one point: that a person who emigrates before he has fulfilled his military duty shall neither, on his return, be forced into the army, or punished for his „premature“ emigration. As there might have remained some doubts in regard to the latter point, it is gratifying that those doubts have been removed. On the other hand, § 4 of the treaty has received not only from Count Bismarck, but from all speakers of the Diet, an interpretation which can never be admitted here, and which, if they insist upon it in Germany, must lead within a few years, to the gravest difficulties.

Jener Paragraph sagt, dass ein zweijähriger Aufenthalt des Naturalisirten in seinem Geburtslande als Beweis seiner Absicht, auf das erworbene Bürgerrecht zu verzichten, angesehen werden *kann*. Das war hier von den dem Vertrag freundlich gesinnten Zeitungen so aufgefasst: dass jener zweijährige Aufenthalt *nicht* als Beweis für die bezeichnete Absicht angesehen werden solle und dürfe, wenn der Betreffende den positiven Beweis des Gegentheils (durch Erneuerung seines Reisepasses, oder durch ausdrückliche Erklärung, oder wie immer) liefere. Denn andernfalls würden Hunderte gerade der ältesten und wohlhabendsten naturalisirten Bürger in die peinlichste Lage kommen. Es ist schon jetzt nicht selten, wird aber bei der fortwährenden Erleichterung des Verkehrs immer häufiger werden, dass deutsch-amerikanische Bürger, um die Erziehung ihrer Kinder zu überwachen, oder auch um auf angenehme Weise von ihren Renten zu leben, sich mehrere Jahre (länger als zwei Jahre) in Deutschland aufhalten.

In der Reichstagsdebatte ist nun aber von allen Rednern, Herrn von Bismarck nicht ausgenommen, das „kann“ im § 4 ohne Weiteres als gleichbedeutend mit „muss“ aufgefasst worden. Wenigstens findet sich nirgends eine Andeutung, dass ein in Amerika naturalisirter Deutscher länger als zwei Jahre in Deutschland wohnen könne, *ohne*

Said paragraph regulates that a two years' residence of the naturalized citizen in his native country *may* be looked upon as a proof that it is his intention to renounce his naturalization. This had been interpreted by some journals in this country, which thought favorably of the treaty, in this manner: that said two years' residence should not and *could not* be looked upon as a proof of the said intention, if the person in question could show positive proof to the contrary (by the renewal of his passport, or by an express declaration, or by any other means whatsoever). For, if interpreted differently, hundreds of the oldest and most substantial naturalized citizens would be placed in the most awkward position. It is not a rarity now, and it will become more and more frequent with the encreasing facility of intercourse, that German-American citizens, in order to superintend the education of their children, or to live upon their income in a manner agreeable to them, reside longer than two years in Germany.

But in the debate of the Reichstag (Diet) the expression „*may*“ in Art. 4 has been, without any discussion, treated by all the speakers, Herr von Bismarck not excepted, as of an equal meaning with „*must*“. At least, there is not a single word to be found any where stating that a German naturalized in America may live longer than two years in Germany, *without*

auf sein amerikanisches Bürgerrecht zu verzichten. Es wäre mithin, wenn in Berlin wirklich eine solche Auffassung besteht, durch den Vertrag nur gesagt, dass in Amerika naturalisirte Deutsche in Deutschland *zwei Jahre lang*, doch *nicht länger*, als Amerikaner angesehen und behandelt werden sollen. Aber das wäre nicht ein Zugeständniss an die Vereinigten Staaten, sondern eine Insulte. Wenn der Vertrag nicht zu ernstern Zerwürfnissen Anlass geben soll, so muss durch eine authentische Interpretation festgestellt werden, dass das „kann“ von der Deutschen Regierung zu Ungunsten des naturalisirten Amerikaners ausschliesslich da geltend gemacht werden darf, wo bei der Auswanderung *mala fides* gewaltet hat.

Ich glaube aus bester Quelle zu wissen, dass die preussischen Unterhändler des Vertrags Fälle dieser Art im Sinne hatten. Namentlich schwebte ihnen die Möglichkeit vor, dass die Mottenburger Kaufmanns- und Rhederssöhne nach New-York geschickt werden würden, um hier, d. h. nach heutigen Anschauungen in Rufweite von Mottenburg, ihre Lehrzeit auf angenehme Weise zu verbringen, und dann im Alter von 21 Jahren als „Amerikaner“ bis an ihr Lebensende gegen die verhasste preussische Militärpflicht gefeit zu sein. Wenn man preussischerseits wirklich nur für solche Fälle in dem „kann“ eine Handhabe zu besitzen wünschte, so ist dagegen nichts ein-

renouncing his American citizenship. If there exists in reality such an interpretation in Berlin, the treaty would purely regulate that Germans naturalized in America shall be held and treated in Germany as Americans *during two years, but no longer*. This, however, *would not be a concession to the United States, but an insult*. If serious difficulties arising from the treaty are to be obviated, an *authentic* interpretation should state that the „may“ can *only and exclusively* be claimed to be valid by the German government against the naturalized American *in cases where the mala fides can be proved to exist*.

I know, and I believe from the very best source, that the Prussian negotiators of the treaty had cases of the kind in mind; and more particularly the possibility presented itself to them that the sons of the Mottenburg* merchants and shipowners would be sent to New-York to finish their apprenticeship here, i. e. within call from Mottenburg, in an agreeable position according to the usages of the present time, and then, when 21 years of age, return to the business of their fathers, as „Americans“, proof to the end of their lives against the detested Prussian military law and duty. If Prussia wished to have a handle for such cases, and for such cases only, in the little word „may“, we have nothing to say against it. Those young fops of the German

* Allusion to a burlesk opera, in which the city of Mottenburg, and its citizens, play a prominent, though not enviable, part. M.

zuwenden. Die jungen Laffen aus den deutschen Seestädten, die sich hier als Kaufleute aufhalten, aus ihrer Absicht, nur Geld in Amerika zu erwerben, um es später in Deutschland „auf eine angenehme Weise zu verzehren“, gar kein Hehl machen, und grösstentheils auf die zugleich dümmste und frechste Weise über alles Amerikanische absprechen — sind in der That keine Deutschamerikaner, auch wenn sie zu bestimmten Zwecken sich einen Bürgerschein erwirken sollten. Sie sind, wohin das Schicksal oder Gewinnsucht sie verschlagen möge, Mottenburger und bleiben es. Während des Krieges liefen sie schaarenweise zum Consul, um sich ihr Mottenbürgerthum schriftlich bescheinigen zu lassen, und dadurch der hiesigen Militärpflicht zu entgehen. Wenn sie sich amerikanische Naturalisationsscheine erwirken, um in ihrer Heimath dem „verhassten Preussenthum“ auf ähnliche Weise Trotz bieten zu können, wie hier mit Hülfe ihrer Consulatsscheine dem „Yankeethum“, so wird es, auf Seiten derjenigen in Amerika naturalisirten Deutschen, die sich wirklich als Bürger ihres neuen Vaterlandes fühlen, durchaus kein Bedauern erwecken, ihnen durch das Wörtchen „kann“ in dem Bancroft'schen Vertrage ihr verächtliches Spiel verdorben zu sehen. Aber in allen Fällen, wo für die Annahme einer *mala fides* des Auswandernden kein Grund besteht, darf jenes „kann“ nur zu Gunsten des Naturalisirten ausgelegt werden, wenn die Freundschaft zwischen den Vereinigten Staaten und Nord-

seatowns, who reside here as merchants, and who do not in the least conceal their intention of merely making money in America, in order to spend it at a later date in a „fashionable way“ in Germany, and who, besides, affect to find fault with every thing American in the most saucy and ignorant manner — those fops are no real German-Americans, even if they succeed in annexing, for their own and private purposes, a certificate of naturalization. They are, wheresoever their fate, or their love of money, may carry them, „Mottenburgers“ and remain such. During our war, they ran in flocks to their consuls, to have their Mottenburg allegiance duly certified in writing, in order to escape thereby the military duties devolving upon our citizens. If they manage to acquire American certificates of naturalization, in order to defy, at home, in the same manner the „hated Prussindom“, as they did in this country, with the assistance of their consular certificates, with regard to the equally hated „Yankeedom“, it cannot, on the part of those naturalized Germans, who truly appreciate the worth and value of their citizenship, cause much regret, to see, by the Bancroft „may“, their despicable tricks thwarted. But in all cases where no sufficient reason for the supposition of a *mala fides* exists, the word „may“ should only be interpreted in favor of the naturalized citizen, provided we all wish the friendship between the United States

deutschland, auf welche Herr v. Bismarck und Dr. Loewe so grosses Gewicht legen, ungestört bleiben soll.

3. *Extracts from: Der Amerikanisch-Norddeutsche Vertrag. Von Dr. F. W. W(ede)kind. Stuttgart, bei C. Grüniger; Hannover, bei C. Brandes. 1. Mai 1868. With the motto: „Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free People ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of Republican Government. George Washington, 1796“ **

P. 8: „As, in the course of the treaty, the act of *naturalization* in America has been frequently referred to, we shall state, above all things, that an uninterrupted residence of five years in the United States is not at all sufficient for the admission of a person as a citizen. It is, besides, necessary that he should have „declared his intention“ of becoming a citizen, two years before his naturalization, in a court of justice, stating upon oath that it is his *bona fide* intention to become a citizen of the United States, and to forswear for ever his allegiance to any foreign prince, potentate, states and sovereignties, whatever be their names, and more in particular to the prince whose subject he has been hitherto. After the lapse of two years, and before his admission, a citizen must bear witness upon oath, and in court: „that the person to be admitted has conducted himself, during his five years' residence, as a man of a good moral character, *that he has adhered to the principles of the Constitution of the United States*, and that he is favorable to the good order and happiness of the same.“ After this the person to be admitted swears himself a solemn oath: „that he will support the Constitution of the United States, that he *renounces and forswears completely and forever* all allegiance and fidelity to any foreign prince, and more particularly to him whose subject he has hitherto been.“ Not till this ceremony has been performed, does the court, by which the oath was administered to the new citizen, make out his certificate of naturalization and hand it to him.“

and Germany, upon which Herr von Bismarck and Dr. Loewe put so much importance, to remain indisturbed.

* To save room, I give those passages in my own translation, referring the reader, for its correctness, to the original. M.

P. 10: „(In Prussia) to be received a citizen, a man must be of age and of a sound mind; he must have led a good moral life, and he must prove that he can find in the place where he intends to settle lodgings or employment, and that he will be able to support himself and those depending upon him. The naturalization is granted by the police authorities of the country. Neither a period of previous residence within the territory of the state, or a certain time of apprenticeship, or trial, or certain political principles are required for naturalization.“

„According to the law, now in force in Prussia, of Dec. 31, 1842, *the quality of a Prussian*, saving some other causes belonging to the criminal code, is lost by a discharge at the request of the subject, or by a residence of ten years abroad. In some other German states, the *indigenat*, or the right of home and protection, becomes extinct by the mere act of emigration. But the Prussian Constitution of 31 January, 1850, Art. 11, further says expressly: „The liberty of emigration can only be restricted on the part of the state by reasons of the military duty.“ From the excellent speech made by our former ambassador at Berlin, Mr. *N. B. Judd*, on the occasion of a debate in the House of Representatives, 2 Dec. of last year, on the rights of American citizens abroad, we see that, like England, Prussia has also tried to enforce the principle: „Once a subject, always a subject.“ — This, however, is in direct contradiction with the own laws of Prussia cited above, and we do not see why our government has not, in reference thereto, rejected point blank the unfounded pretension“*.

P. 11. „From the comparison of the acts of naturalization of the two countries it results that there is less difficulty in Prussia than in the United States, and that the latter proceed in the whole act with more severity and caution than any other country upon Earth. they impose upon the candidate a sufficiently long novi-

* Is it not strange that, if the Prussian law expatriates its subjects after a ten years' absence, our Government should have made a treaty with Prussia by which it authorizes the latter to have a hold of them for the rest of their lives, after their naturalization in America? Suppose a Prussian subject naturalized in America returns to Prussia after an absence of ten years in the U. S., will he not, according to Art. 4 of the treaty, become liable, after two years' residence, instead of being for ever free from all obligations to his native country, to be compelled to enter the army? M.

ciate to allow him to observe and study the political life, and to familiarize himself with, the principles and institutions of the Republic, in order to educate him gradually to become a self-conscious free citizen. Notwithstanding those difficulties and the apprenticeship imposed upon them, almost all Germans, treading the free soil of the Union, are anxious, immediately upon their arrival, to take the necessary steps towards their admission as citizens The German turns, almost without exception, a thorough republican, and becomes so much the more faithfully and sincerely attached to his adopted country, as he is conscious that he owes his citizenship and the privilege of being one of a free and powerful nation not to the *chance of birth*, but to his own selection, made according to his innermost conviction. All this, however, does not prevent him from retaining for life in his warm heart that peculiar affection towards the land of his birth so natural in every feeling being“

P. 13. „The number of *naturalized German citizens*, now living in the United States, probably amounts to about two millions, and they are far from forming the least estimable portion of the population of the Union. To leave the land where once your cradle stood, requires a certain amount of resolution and enterprise, and thus we mostly find among the emigrants young, powerful and laborious persons, in short the most intelligent and the most active of the German people. All the different states of Germany yield their contingent, though, of course, in unequal proportions, and if we have stated above that, with very few exceptions, all immigrated Germans acquire their naturalization in America, we may now add that those exceptions mostly belong to the comparatively few who come over from Bremen and Hamburg. The unexplained reason thereof is probably that they are a sort of republicans at home“ *.

P. 15. „The regulation of the third aline of the 1st Art. (of the treaty), according to which the mere declaration of an intention to become a citizen shall no longer have the effect of naturalization, downright annuls a regulation of the American law of naturalization, which reads „that if an alien dies after having declared his intention, but before he has become naturalized, he shall be looked upon, with

* Does not the New-York correspondent of the *Allgemeine Zeitung* perhaps chiefly refer to *them* when he speaks of the Mottenburgers? See N° 2 of this chapter. M.

regard to his wife and children, as having really acquired his citizenship". *We cannot refrain from observing that any alteration in the naturalization laws, can only be made, according to the Constitution, by the whole Congress, not by the Government and Senate alone*" *.

P. 17. „The crimes referred to in Art. 3, with regard to the treaty of 16 June 1852, are: „Murder, assault with the intention to kill, piracy, arson, forgery or emission of forged documents, fabrication or propagation of counterfeits, either in coin or paper, and peculation or embezzlement of public monies.,

Ad Art. 4 of the treaty. P. 19. „In this article as well as in other parts of the treaty the word „naturalized“ is used in a manner which distinctly shows the intention of making a difference between naturalized and native citizens of the United States in regard to their legal condition within, and with reference to, the state. *The law does not allow any such difference. Through his admission within the American citizenship, the alien acquires the same political, civil and private rights which are warranted to the native citizens by the Constitution, i. e. absolute individual liberty, security of person and property, and perfect equality of all before the law.*“

„Old General Cass, then secretary of state, sent a despatch in 1859 to our minister at Berlin, which contains this passage: „*From the moment an alien becomes naturalized, the allegiance to his native country is dissolved for ever. He is politically born anew. An intransgressible boundary separates him from the land of his birth. He is no longer responsible to the latter for anything he may say or do, not say or not do, after he has taken his new character as a citizen, just the same as if he were born in the United States.* If he return to his native country, he returns as an American citizen and in no other quality. His original government is only then authorized to punish him for an offense, if the latter was committed during his former allegiance; and then it must have become perfect before his expatriation. *The admission of a principle contradictory to these fundamental principles would make a hateful difference between naturalized and native citizens*“ — One of the two signers of the present treaty, Mr. G. Bancroft, when ambassador in London in 1849, wrote to Lord Palmerston the following noteworthy lines:

* See our own remarks on that subject, and the Würzburg protest, pp. 67 — 70.

„In the ancient and in the present times, according to the Old Roman, to the French and German law, according to the law of the whole civilized world, in accordance with the policy followed by Great Britain herself in her colonies, *naturalized citizens are equal to native citizens*. The United States cannot give their consent to an abnegation of this principle, recognized alike by ancient and by modern nations. *Once naturalized, the adopted citizens of America cease to be Bavarians, Prussians, French or English. They are Americans. Wherever they may reside, whatever they may do, on land or on board a ship, at home or abroad, they are every where Americans. That has been promised by the United States; and that the latter are obliged upon their word and honor to see acknowledged*“*.

S. 22. „The leading principles and laws in Germany may be seen from the following: Professor *Bhuntschli*, in his *Staatslexicon*, expresses himself thus: „Any state that does not consider its citizens as serfs, but as free men, acknowledges thereby, as a matter of course, their right of emigration. If however, in spite of this principle, here and there some state pronounces the allegiance of its subjects indissoluble, we cannot admit any other motives of such a view than selfconceit and violence (*Selbstüberhebung und Gewaltthatigkeit*).“ And in *Rotteck and Welcher's Staatslexicon* we read: „The right of emigration is equivalent to the right of pursuing one's object of life in all places where no right of others is infringed upon; thence it exists in the general law of personal liberty, and needs no particular deduction or demonstration.“ — „There is no other title for the closing up of his territory than the claim of servitude on the part of the potentate.“ — „The state, formed for the protection of the rights and the liberty of society, is changed thereby into a prison or a slaveden.“

„We have shown already that, and in what manner, the Prussian allegiance can be brought to a legal end. The most recent legislation of the North-German Confederation, by its § 15 of the law of 5 Nov. 1867, relating to the duty of military service, allows the right of emigration in the following terms: „The permission to emi-

* Not having the English originals at hand, I give the verbal translation of the above passages from Dr. Wedekind's German text. I need scarcely point out to the reader the abnegation of the above principles in the 4th article of the treaty. **M.**

grate cannot be refused to persons subject to military duty in the land-army or navy, in times when they are not called upon to do active service." —

„If, then, as we have sufficiently shown, a Northern German can be discharged from all his obligations towards his native state, and if, as we have equally proved, on having been naturalized in the United States, he is perfectly equal in a political sense with the native citizens of these States, how can either the American, or a German government make a difference between him and a native citizen? The admission of such a principle, as General Cass remarks, would be equally *hateful* and *unjust*."

P. 24. „But the regulations of said article imply also *a restriction of our personal liberty* with regard to our residence abroad. By the rights and privileges warranted by the Constitution (Art. IV. Sect. 2. § 1) to *all* American citizens, naturalized citizens also have acquired the right not only to move in the most unrestricted manner within the territory of the Union, and to reside wherever they please, but the same right is conferred upon them in foreign countries. Except during the war of 1812, the United States have, from the commencement of their existence, granted to their whole population, and to each of its members, the unalienable right of the liberty to live according to their own option, a right which has never been curtailed by them. — By said article that right is restricted in a manner unheard of in civilized countries. We do not object to Congress having the authority of making, in times of war or whenever else it may seem indispensable, a law restricting the absence of citizens from the United States, in order to recall them home, and we should certainly be among the first to cheerfully answer such a call. But so far, there exists no such law; whenever it is to be made, *it must have the same force with all citizens*, and, a condition which is quite as essential, *it must*, according to the Constitution, *come from the whole Congress*, and not from the government and Senate through a mere treaty."

P. 26. „there is *no law* making the loss of American citizenship depending on a certain period of absence from the U. S., and yet, according to the article in question, a residence of more than two years in Northern Germany is intended to have that effect! " —

P. 64. „We arrive now at the question, *which Americans are hit by the regulations of the first and third alineas of Art. 4*; and the answer is: *indirectly all, but directly only those subjects of the North German Confederation who, after the date when the present treaty takes effect, acquire the U. S. citizenship.* According to Art. I, Sect. 9, § 3, of our *Constitution*, the *Congress shall make no law having retrospective power (ex post facto law) **, and if the whole Congress has no such authority, it is much less to be expected that part of the Congress, the Senate, should be invested with it.“ „As for the government of the North German Confederation, the regulations, relating only to subjects of the latter, cannot apply to such German-Americans as have emigrated before the existence of said Confederation, when they were no subjects to it.“

P. 76. (A treaty is a law) „However, in order that treaties should have the precedence before other laws, they must be lawful, i. e. *they must be in accordance with the Constitution of the United States*, and that such is *not the case with the treaty before us* we believe we have sufficiently shown in the course of our observations.“

P. 79. „Also the manner in which this treaty was put in scene, by some members of the North German Diet, with the birthday of Washington and an apotheosis of the great founder of the Republic, has jarred in a peculiar way on our feelings we are sure that *Washington would never have made such a contract*, and that we would be induced (in his place) to reject a birthday-present like it. We have been still more surprised, however, by a seemingly official** article of the „*Hamburger Börse*“ which vindicates to Prussia the glory to have become, through the conclusion of said treaty, the pioneer or breachbreaker in the question of naturalization. If, however, the fourth article have found admittance in this treaty at the instance of Prussia; it appears to us that she has become rather a breachbreaker into the bulwark of our liberties, and that she has thereby stept backwards towards the platform, which she occupied in the time of the revolution of July, to the horror and

* The § reads: „No Bill of Attainder or *ex post facto Law* shall be passed.“ — i. e. no law rendering an act punishable, in a manner in which it was not punishable at the time it was committed.

Officiös — official or officious. It seems that the Germans frequently confound the two expressions. M.

prejudice of all liberal German constitutions. This appears to have been also the opinion of the Poles who unanimously voted against the treaty and its bearing; for they know best what it is to see one piece ~~after another~~ of liberty taken from a people; till, at last, nothing remains save the sad remembrance of it!“

VII.

GENERAL BANKS' BILL

IN THE HOUSE OF REPRESENTATIVES.

We give it as we found it in the *Westliche Post* (General Schurz's paper), St. Louis, April 29th 1868. Not having been able to procure a copy of the original, we add our own translation*.

Congressverhandlungen. Die durch General Banks vom Comité für auswärtige Angelegenheiten einberichtete Bill, betreffend das Expatriationsrecht und den Schutz amerikanischer Bürger im Auslande, ist in folgender Fassung mit 100 gegen 4 Stimmen angenommen worden.

Eine Bill, betreffend die Rechte amerikanischer Bürger im Auslande.

Da das Recht der Expatriation ein natürliches und angebornes Recht aller Menschen und für den Genuss der Rechte des Lebens, der Freiheit und des Strebens nach Glückseligkeit, — für deren Schutz die Regierung der Vereinigten Staaten errichtet wurde, — unentbehrlich ist; und

* **Translation.** — The Bill reported by General Banks of the Committee for Foreign Affairs, relating to the right of expatriation and the protection of American citizens abroad has passed with 100 votes against 4, in the following form:

„A bill relating to the rights of American citizens abroad:

„Whereas the right of expatriation is a natural and innate right of all men, and indispensable for the enjoyment of the rights of life, liberty and the pursuit of happiness — for the protection of which the government of the United States was erected —; and“

Da die Regierung in Anerkennung dieser Grundsätze Einwanderer von allen Nationen offen aufgenommen und denselben die Bürgerrechte verliehen hat; und

Da der Anspruch erhoben wird, dass solche Amerikanische Bürger mit deren Nachkommen Unterthanen fremder Staaten sind, und dass sie den Regierungen derselben Gehorsam schulden; und

Da es zur Aufrechterhaltung des öffentlichen Friedens nothwendig ist, dass solche Ansprüche fremder Unterthänigkeit sofort und endgültig in Abrede gestellt werden; desshalb

Sei es beschlossen u. s. w., dass jede Erklärung, Instruction, Anweisung oder Entscheidung irgend eines Regierungsbeamten, in welcher das Recht der Expatriation geläugnet, beschränkt oder in Frage gestellt wird, mit den Grundsätzen unserer Regierung unvereinbar ist;

Dass alle Ver. Staaten-Bürger, so lange sich dieselben in fremden Staaten aufhalten, zu demselben Schutze in ihrer Person und ihrem Eigenthum berechtigt sein und denselben Schutz von Seiten unserer Regierung erhalten sollen, welcher eingeborenen Bürgern in gleicher Lage und unter gleichen Umständen zu Theil wird;

„Whereas our government, in recognition of these principles, has frankly received immigrants of all nations, and has conferred upon them the rights of U. S. citizenship; and “

„Whereas it is claimed that such American citizens with their descendants be subjects to foreign states, and that they owe obedience to the same; and

„Whereas it is necessary for the maintenance of the public peace, that such claims of foreign allegiance be forthwith and for ever disavowed; therefore “

„Be it resolved &c. that any declaration, instruction, injunction or decision of any government officer, by which the right of expatriation is denied, restricted or questioned, is irreconcilable with the principles of our government; “

„That all naturalized citizens of the United States, as long as they reside in foreign states shall be entitled to the same protection in their person and property and shall receive the same protection from our government, as it is granted to native citizens in like situation and circumstances; “

Dass, sobald dem Präsidenten bekannt wird; dass irgend ein Ver. Staaten-Bürger, in Widerspruch mit dem Sinne und den Zwecken dieser Acte, von einer auswärtigen Regierung auf den Grund hin verhaftet wurde und gefangen gehalten wird, dass die Naturalisation in den Ver. Staaten sein Unterthanenverhältniss zu seinem früheren Souverän nicht aufhebt, oder wenn irgend ein Bürger verhaftet und zurückgehalten wird, dessen Freilassung gefordert und verzögert oder verweigert würde, — dass dann der Präsident ermächtigt sein soll, die Handelsverbindungen mit einer solchen Regierung zu suspendiren, oder falls keine andere zweckdienliche Massregel ergriffen werden könnte, die Verhaftung und Gefangenhaltung irgend eines Unterthanen einer solchen auswärtigen Regierung, der innerhalb der Gerichtsbarkeit der Ver. Staaten angetroffen wird (mit Ausnahme von Gesandten und andern öffentlichen Beamten und deren Angehörigen und Dienerschaft), zu verfügen, vorausgesetzt, dass derselbe nicht seine Absicht, Ver. Staaten-Bürger werden zu wollen, erklärt hatte; und hat der Präsident dem Congresse unverzüglich Nachricht von irgend welchen nach Massgabe dieser Acte in Ausführung gebrachten Massregeln zu geben.

„That, on the President's being informed that any American citizen, in contradiction with the meaning and the purpose of this act, be imprisoned by a foreign government, on the ground that the naturalization in the U. S. does not dissolve his allegiance to his former sovereign, or if a citizen be imprisoned, or retained, whose release has been claimed and delayed, or refused — that the President, then, shall be authorized to suspend commercial relations with such a government, or, in case such a measure could not be resorted to, to order the arrest and imprisonment of any subject of such a government, who may be found within the territory or jurisdiction of the United States (with the exception of ambassadors and other public employés and their families and servants), provided that he have not declared his intention of becoming a U. S. citizen; and the President shall give immediate information to Congress of any measures taken in consequence of this act.“

(We have left away the translation of the remarks made upon the above bill by the editors, and refer the reader for the fate of said act to some later communications.)

Wie man sieht, ist sowohl das Expatriationsrecht, wie auch der Grundsatz einer völligen Gleichstellung der eingewanderten mit den eingeborenen Bürgern in dieser Acte anerkannt. Die frühere Fassung der Acte mit Bezug auf die gegen fremde Regierungen zu ergreifenden Repressalien ist ebenfalls wesentlich abgeändert. Die Bestimmung, dass der Präsident beliebige Bürger fremder Staaten einstecken lassen sollte, um diese Staaten dadurch zur Herausgabe widerrechtlich gefangen gehaltener amerikanischer Bürger zu zwingen, war ursprünglich die einzige und ausschliesslich in der Acte vorgesehene Repressalie. General Banks hat der hiegegen im Repräsentantenhause erhobenen Opposition endlich so weit nachgeben müssen, dass nach der jetzigen Fassung diese Art von Repressalien nur als letztes Auskunftsmittel in Anwendung kommen soll, während zunächst namentlich ein Versuch mit einer Suspension der Handelsbeziehungen gemacht werden, also etwa ein Verbot, Schiffe oder Waaren aus dem betreffenden fremden Staate einzuzularen, erlassen werden soll. Es liegt auf der Hand, dass eine Repressalie dieser Art sowohl gerechter ist als auch praktisch wirksamer sein muss. Die grosse Majorität für dieses Gesetz im Repräsentantenhause berechtigt zu der Annahme, dass auch der Senat demselben seine Zustimmung geben wird, und dass die in dem Gesetze aufgestellten, namentlich für die eingewanderte Bevölkerung der Ver. Staaten so äusserst wichtigen Grundsätze, endlich eine officiële Anerkennung erhalten und als gesetzliche Vorschriften für die Verwaltung unserer auswärtigen Angelegenheiten gelten werden.

Uebrigens ist die durch diese Bill angeregte Idee, die Verletzung der Rechte amerikanischer Bürger durch Repressalien zu ahnden, fruchtbringend gewesen. Ein Vorschlag des Repräsentanten Schofield bezweckt die Ergreifung von ähnlichen Repressalien wegen der amerikanischen Bürgern von England vorenthaltenen Entschädigung für Verluste durch die Alabama. Herr Schofield beantragt nämlich die Erlassung von Gesetzen, durch welche den Ver. Staaten-Gerichten verboten werden soll, die vor Gericht geltend gemachten Ansprüche von Engländern zu berücksichtigen, so lange die englische Regierung sich weigert, den durch die Alabama Beschädigten gerecht zu werden.

VIII.

THE WÜRZBURG PROTEST.

Whereas by Article 4th of the Treaty, recently made, and signed, on the 22nd of February a. c., by George Bancroft, the United States minister at Berlin, in the name of the U. S. government, on the one part, and privy counselor Bernhard Koenig, in the name of the government of the North German Union, on the other part, the constitutional rights of United States citizens of German birth residing in Germany are seriously threatened, and

Whereas a similar treaty is about being ratified between our government and the government of Bavaria and other South German States,

We the United States citizens residing at Würzburg, and assembled in a meeting, do hereby resolve:

1. That we know only of one kind of citizenship in the United States, and that by naturalization an alien is invested with all the rights and privileges of a native citizen, except his eligibility for the Presidency of the United States;
2. That, in consequence of our naturalization, we have a right to claim, and do claim, on the part of our government, the same protection as the native citizens of the United States, living abroad, claim and receive, as long as we do not by our own and free will and act renounce our naturalization, and return, from the condition of free and sovereign citizens, to that of subjects to any foreign potentate;
3. That we consider the said fourth Article of Mr. Bancroft's Treaty, restricting our liberty to reside, as American citizens, in foreign countries as long as we choose, as an encroachment upon our civil rights; that we most solemnly *protest* against this and against any further encroachment by treaty, or otherwise, and that we shall hold any officer of our government, through whose fault or neglect any naturalized citizen of German birth may come to loss or injury, responsible for the damages done thereby to said citizen;

4. That the favorable interpretation of said 4th article given by Mr. Bancroft in private and without any official authorization by either government, is almost a contradiction to the words of the Treaty itself, and necessarily fails to satisfy us, as we cannot understand why the article was admitted, if it was not intended to be valid;
5. That we proffer our most cordial thanks to General Banks and the other members of our House of Representatives for the just and liberal bill they have passed with regard to the protection due to *all* American citizens abroad;
6. That steps be taken to invite the American citizens of German birth in Germany and at home, as well as other native citizens, to unite with us in taking measures for the protection of our constitutional rights; and
7. That these resolutions be printed and copies thereof sent to the heads of our Government and Congress, as well as our ministers and consuls, and to such places in Germany where American citizens are known to reside, and to the editors of some of the principal papers on both sides of the Atlantic.

In witness whereof we, the chairman and secretary of this meeting elected, have set our hands at Würzburg, in the kingdom of Bavaria, on this 20th day of June, in the year 1868.

CHARLES MUNDE, M. D.

of Massachusetts,

Chairman.

L. CHILD,
Sec'y.

New - Yorker Demokrat, vom 25. Juli 1868. — **Der Nationalisationsvertrag mit dem Königreiche Bayern.** — Wir gaben in diesen Tagen den Hauptinhalt des vom Gesandten Bancroft mit dem Königreiche Bayern abgeschlossenen Vertrages über die gegenseitigen Naturalisirten. Der Nachricht von dessen Abschlusse ging eine Kabelnotiz voraus, welche eines von amerikanischen Bürgern in Würzburg gegen diesen Vertrag erhobenen Protestes erwähnte. Diese Verwahrung ist uns jetzt von deren Veranlasser, dem Vielen unserer Leser bekannten Dr. Karl Munde — früher in Florence bei Northampton, Mass. — im englischen Abdrucke direct zugegangen, und wir ver-

öffentlichen diesen Protest nachstehend um so lieber, als wir mit den darin ausgesprochenen Grundsätzen und Ansichten allenthalben übereinstimmen.

Verwahrung.

In Betracht, dass durch Artikel 4 des Vertrages, der unlängst gemacht und am 22. Febr. d. J. durch George Bancroft, den Ver. St. Minister in Berlin, im Namen der Regierung der Ver. St. an einem, und dem Geheimen Rathe, Bernhard König, im Namen der Regierung des norddeutschen Bundes am andern Theile, unterzeichnet wurde, die constitutionellen Rechte der Ver. St. Bürger, deutscher Abkunft, welche in Deutschland wohnen, ernstlich bedroht werden, und

In Betracht, dass ein ähnlicher Vertrag im Begriff steht zwischen unserer Regierung und der Regierung von Bayern und andern deutschen Südstaaten ratificirt zu werden, so *beschliessen* wir, die in Würzburg wohnenden und hier versammelten Bürger der Ver. St., wie folgt:

- 1) Dass wir nur *eine* Art von Bürgerrecht in den Ver. Staaten kennen und dass durch Naturalisation ein Fremder mit allen Rechten und Privilegien eines eingeborenen Bürgers bekleidet wird, mit Ausnahme seiner Wählbarkeit für die Präsidentschaft der Ver. Staaten;
- 2) dass in Folge unserer Naturalisation wir ein Recht haben, von Seiten unserer Regierung zu fordern, und hiermit fordern, dass sie uns denselben Schutz gewähre, welchen die eingebornen Bürger der Ver. Staaten, die im Auslande leben, fordern und erhalten, so lange als wir nicht durch unseren eigenen und freien Willen und unser Handeln auf unsere Naturalisation Verzicht leisten, und aus dem Zustande freier und souveräner Bürger zu dem von Unterthanen irgend eines fremden Machthabers zurückkehren;
- 3) dass wir den erwähnten 4. Artikel des Bancroft'schen Vertrages, welcher unsere Freiheit, als amerikanische Bürger in fremden Ländern zu leben so lange es uns beliebt, beschränkt, als einen Eingriff in unsere bürgerlichen Rechte betrachten; dass wir feierlichst gegen diesen und jeden weiteren Eingriff durch Vertrag oder sonst wie *protestiren* und dass wir jeden Beamten unserer Regierung, durch dessen Fehler oder Nachlässigkeit irgend ein naturalisirter Bürger von deutscher Geburt in Ver-

lust oder Nachtheil gerathen mag, für den dadurch besagtem Bürger erwachsenden Schaden für verantwortlich halten;

- 4) dass die günstige Auslegung besagten 4. Artikels, welche Herr Bancroft privatim, und ohne irgend welche amtliche Ermächtigung von Einer der beiden Regierungen gegeben hat, beinahe im Widerspruch zu den Worten des Vertrages selber steht, und nothwendiger Weise verfehlt, uns zu genügen, da wir nicht verstehen können, warum der Artikel aufgenommen wurde wenn seine Geltung nicht beabsichtigt wurde;
- 5) dass wir unsern herzlichen Dank gegen General Banks und die andern Mitglieder unseres Repräsentantenhauses aussprechen für die gerechte und liberale Bill, welche sie in Bezug auf den *allen* amerikanischen Bürgern im Auslande gebührenden Schutz erlassen haben;
- 6) dass Schritte gethan werden sollen, die amerikanischen Bürger deutscher Geburt in Deutschland und daheim sowohl wie andere eingeborne Bürger einzuladen, sich mit uns zur Ergreifung von Massregeln für den Schutz unserer constitutionellen Rechte zu vereinigen; und
- 7) dass diese Beschlüsse gedruckt und Exemplare davon an die Vorstände unserer Regierung und den Congress gesendet werden sollen, sowie an unsere Minister und Consuln, und an solche Plätze in Deutschland, wo sich bekanntermassen amerikanische Bürger aufhalten, und an die Redacteurs Einiger der hauptsächlichsten Zeitungen auf beiden Seiten des atlantischen Meeres.

Wessen zu Urkund wir, der erwählte Vorsitzende und Secretär dieser Versammlung unsere Unterschrift gegeben haben zu Würzburg im Königreiche Bayern, an diesem 20. Tage des Juni im Jahre 1868.

CARL MUNDE, M. D., v. Mass.,
Vorsitzender.

L. SCHILD, Secretär.

IX.

THE BAVARIAN NATURALISATION TREATY

WITH

THE UNITED STATES.

* Seine Majestät der König von Bayern und der Präsident der Vereinigten Staaten von Amerika, von dem Wunsche geleitet, die Staatsangehörigkeit derjenigen Personen zu regeln, welche von Bayern in die Vereinigten Staaten von Amerika, und von den Vereinigten Staaten von Amerika in das Gebiet des Königreiches Bayern einwandern, haben beschlossen, über diesen Gegenstand zu unterhandeln, und zu diesem Behufe Bevollmächtigte ernannt, um eine Uebereinkunft abzuschliessen, nämlich:

Seine Majestät der König von Bayern den Ministerialrath Dr. *Otto Freiherrn von Völdern-dorff*, und

Der Präsident der Vereinigten Staaten von Amerika den ausserordentlichen Gesandten und Bevollmächtigten Minister *George Bancroft*;

welche die folgenden Artikel vereinbart und unterzeichnet haben:

Art. 1. Angehörige des Königreichs Bayern, welche naturalisirte Staatsangehörige der Vereinigten

* Aus der *Süddeutschen Presse* vom 30. Juni 1868.

* His Majesty the King of Bavaria and the President of the United States of America, led by the wish to regulate the citizenship of those persons, who emigrate from Bavaria to the United States of America and from the United States of America to the territory of the Kingdom of Bavaria, have resolved to treat on this subject, and have for that purpose appointed plenipotentiaries to conclude a convention, that is to say:

His Majesty the King of Bavaria Dr. *Otto Baron von Völdern-dorff*, Councillor of the Ministry, and

The President of the United States of America, *George Bancroft*, Envoy Extraordinary and Minister plenipotentiary; —

who have agreed to and signed the following articles:

Art. I. Citizens of Bavaria who have become, or shall become naturalized Citizens of the United

* Official translation, from our Consulate at Munich.

Staaten von Amerika geworden sind und fünf Jahre lang ununterbrochen in den Vereinigten Staaten zugebracht haben, sollen von Seite Bayerns als amerikanische Angehörige erachtet und als solche behandelt werden. — Ebenso sollen Staatsangehörige der Vereinigten Staaten von Nordamerika, welche naturalisirte Angehörige des Königreiches Bayern geworden sind und fünf Jahre lang ununterbrochen in Bayern zugebracht haben, von den Vereinigten Staaten als Angehörige Bayerns erachtet und als solche behandelt werden. — Die blosse Erklärung der Absicht Staatsangehöriger des einen oder des andern Theiles werden zu wollen, soll in Beziehung auf keinen der beiden Theile die Wirkung der Naturalisation haben.

Art. 2. Ein naturalisierter Angehöriger des einen Theils soll bei etwaiger Rückkehr in das Gebiet des andern Theils wegen einer, nach den Gesetzen des letzteren mit Strafe bedrohten Handlung, welche er vor seiner Auswanderung verübt hat, zur Untersuchung und Strafe gezogen werden können, sofern nicht nach den bezüglichlichen Gesetzen seines ursprünglichen Vaterlandes Verjährung oder sonstige Strafflosigkeit eingetreten ist.

Art. 3. Der Vertrag zwischen dem Königreiche Bayern einerseits und den Ver. Staaten von Amerika andererseits wegen in gewissen

States of America and shall have resided uninterruptedly within the United States five years, shall be held by Bavaria to be American citizens and shall be treated as such. Reciprocally: citizens of the United States of America who have become or shall become naturalized citizens of Bavaria and shall have resided uninterruptedly within Bavaria five years, shall be held by the United States to be Bavarian citizens and shall be treated as such. — The declaration of an intention to become a citizen of the one or the other country has not for either party the effect of naturalization.

Art. II. A naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving always the limitation established by the laws of his original country or any other remission of liability to punishment.

Art. III. The convention for the mutual delivery of criminals, fugitives from justice, in certain cases, concluded between the United

Fällen zu gewährender Auslieferung der vor der Justiz flüchtigen Verbrecher, welcher am 12. September 1853 abgeschlossen worden ist, bleibt unverändert fortbestehen.

Art. 4. Wenn ein in Amerika naturalisirter Bayer sich wieder in Bayern niederlässt ohne die Absicht nach Amerika zurückzukehren, so soll er als auf seine Naturalisation in den Vereinigten Staaten Verzicht leistend erachtet werden.

Ebenso soll ein in Bayern naturalisirter Amerikaner, wenn er sich wieder in den Vereinigten Staaten niederlässt ohne die Absicht nach Bayern zurückzukehren, als auf seine Naturalisation Verzicht leistend erachtet werden. — Der Verzicht auf die Rückkehr kann als vorhanden angesehen werden, wenn der Naturalisirte des einen Theils sich länger als zwei Jahre in dem Gebiete des andern Theils aufhält.

Art. 5. Der gegenwärtige Vertrag tritt sofort nach dem Austausch der Ratificationen in Kraft und hat für zehn Jahre Giltigkeit. — Wenn kein Theil dem andern sechs Monate vor dem Ablauf dieser zehn Jahre Mittheilung von seiner Absicht macht, denselben dann aufzuheben, so soll er ferner in Kraft bleiben bis zum Ablauf von 12 Monaten, nachdem einer der contrahirenden Theile dem andern von einer solchen Absicht Kenntniss gegeben.

States on the one part and Bavaria on the other part the 12th Sept. 1853 remains in force without change.

Art. IV. If a Bavarian naturalized in America renews his residence in Bavaria without the intent to return to America he shall be held to have renounced his naturalization in the United States.

Reciprocally: if an American naturalized in Bavaria renews his residence in the United States without the intent to return to Bavaria he shall be held to have renounced his naturalization in Bavaria. — The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

Art. V. The present convention shall go into effect immediately on the exchange of ratifications and shall continue in force for ten years. If neither party shall have given to the other six months previous notice of its intention then to terminate the same, it shall further remain in force until the end of 12 months after either of the contracting parties shall have given notice to the other of such intention.

Art. 6. Der gegenwärtige Vertrag soll ratificirt werden von Seiner Majestät dem Könige von Bayern und dem Präsidenten unter und mit Genehmigung des Senats der Vereinigten Staaten, und die Ratifikationen sollen zu München innerhalb zwölf Monaten vom heutigen Datum an (26. Mai) ausgewechselt werden.

Zu Urkund dessen haben die Bevollmächtigten diese Uebereinkunft unterzeichnet und besiegelt.

München, den 26. Mai 1868.

Gez.

Gez.

GEORGE BAN- D^r. OTTO FREIHERR
CROFT. VON VÖLDERNDORFF.

Schlussprotokoll.

Das *Schlussprotokoll* vom 26. Mai 1868 enthält nachfolgende den Inhalt des vorstehenden Vertrages näher feststellende und erläuternde Bemerkungen:

I. Zu Art. 1 des Vertrages.

1) Nachdem die Copulative „und“ gebraucht ist, versteht es sich von selbst, dass nicht die Naturalisation allein, sondern ein dazu kom-mender fünfjähriger ununterbroche-

Art. VI. The present convention shall be ratified by His Majesty the King of Bavaria and by the President by and with the advice and consent of the Senate of the United States and the ratifications shall be exchanged at Munich within twelve months from the date hereof.

In faith whereof the Plenipotentiaries have signed and sealed this convention.

Munich, the 26th May 1868.

(L. S.) signed

(L. S.) signed

GEORGE BAN- D^r. OTTO FREIHERR
CROFT. VON VÖLDERNDORFF.

OFFICIAL PROTOCOL

done at Munich on the 26th of
May 1868.

The undersigned met to-day to sign the treaty agreed upon, in conformity with their respective full powers, relating to the citizenship of those persons, who emigrate from Bavaria to the United States of America and from the United States of America to Bavaria; on which occasion the following observations, more exactly defining and explaining the contents of this treaty were entered in the following protocol:

I. Relating to the I. Art. of the treaty.

1. In as much as the copulative „and“ is made use of, it follows of course, that not the naturalization alone, but an additional five years uninterrupted

ner Aufenthalt erforderlich ist, um eine Person als in den Vertrag fallend ansehen zu können, wobei übrigens keineswegs erforderlich sein soll, dass der fünfjährige Aufenthalt erst nach der Naturalisation folgen müsste. Doch wird hierbei anerkannt, dass, wenn ein Bayer des bayerischen Indigenates oder andererseits ein Amerikaner der amerikanischen Staatsangehörigkeit in der gesetzlich vorgeschriebenen Weise von der Regierung seines bisherigen Vaterlandes entlassen worden ist und sodann die Naturalisation in dem andern Staate in rechtlicher Weise und vollkommen gültig erlangt hat, dann ein noch hinzukommender fünfjähriger Aufenthalt nicht mehr erforderlich sein soll, sondern ein solcher Naturalisirter vom Momente seiner Naturalisation an als bayerischer und umgekehrt als amerikanischer Angehöriger erachtet und behandelt werden soll.

2) Die Worte „ununterbrochen zugebracht“ sind selbstverständlich nicht im körperlichen, sondern im juristischen Sinne zu nehmen, und desshalb unterbricht eine momentane Abwesenheit, eine Reise oder dergleichen, keineswegs die fünfjährige Frist, welche der Art. 1 im Sinne hat.

II. Zu Art. 2 des Vertrages.

Es wird anerkannt, dass eine nach Art. 1 als Angehöriger des

residence is required before a person can be regarded as coming within the treaty, but it is by no means requisite that the five years residence should take place after the naturalization. — It is hereby further understood that, if a Bavarian has been discharged from his Bavarian Indigenat or on the other side, if an American has been discharged from his American citizenship in the manner legally prescribed by the government of his original country and then acquires naturalization in the other country in a rightful and perfectly valid manner, then an additional five years' residence shall no longer be required, but a person so naturalized shall from the moment of his naturalization be held and treated as a Bavarian and reciprocally as an American citizen.

2. The words „resided uninterruptedly“ are obviously to be understood, not of a continual bodily presence, but in a legal sense, and therefore a transient absence, a journey, or the like, by no means interrupts the period of five years contemplated by the first article.

II. Relating to Art. II of the treaty.

It is expressly agreed that a person, who under the Ist Article

andern Staates zu erachtende Person bei ihrer etwaigen Rückkehr in ihr früheres Vaterland auch nicht wegen des etwa durch seine Auswanderung selbst begangenen Reates einer Strafe unterworfen werden kann und selbst nicht später, wenn sie die neuerworbene Staatsangehörigkeit wieder verloren haben sollte.

III. Zu Art. 4 des Vertrages.

1) Man ist beiderseits übereingekommen, dass die den beiden Regierungen gesetzlich gestatteten Sicherungsmassregeln gegen solche in ihrem Territorium sich aufhaltende Fremde, deren Aufenthalt die Ruhe und Ordnung im Lande gefährdet, durch den Vertrag nicht berührt werden; insbesondere wird die im bayerischen Wehrgesetze vom 30. Januar 1868, Art. 10 Abs. 2 enthaltene Bestimmung, wonach denjenigen Bayern, welche vor Erfüllung ihrer Militärpflicht ausgewandert sind, der ständige Aufenthalt im Lande bis zum vollendeten 32. Lebensjahre untersagt ist, durch den Vertrag nicht berührt, doch wird constatirt, dass durch den im Art. 10 gebrauchten Ausdruck „der ständige Aufenthalt“ ohnehin schon derartig Ausgewanderten eine kürzere und zu bestimmten Zwecken unternommene vorübergehende Reise nach Bayern nicht untersagt ist, und erklärt sich die kgl. bayerische Staats-

is to be held as an adopted citizen of the other state, on his return to his original country cannot be made punishable for the act of emigration itself, not even though at a later day he should have lost his adopted citizenship.

III. *Relating to Article four of the treaty.*

1. It is agreed on both sides, that the regulative powers granted to the two Governments respectively by their laws for protection against resident aliens, whose residence endangers peace and order in the land, are not affected by the treaty. — In particular the regulation contained in the second clause of the tenth article of the Bavarian military law of the 30th January 1868, according to which Bavarians emigrating from Bavaria before the fulfilment of their military duty cannot be admitted to a permanent residence in the land, till they shall have become 32 years old, is not affected by the treaty. But yet it is established and agreed that by the expression „permanent residence“ used in the said article the above described emigrants are not forbidden to undertake a journey to Bavaria for a less period of time and for definite purposes, and the royal Bavarian Government moreover cheerfully declares

regierung überdiess gerne bereit, in solchen Fällen, in welchen die Auswanderung offenbar *bona fide* geschehen ist, eine milde Praxis eintreten zu lassen.

2) Es wird anerkannt, dass ein in Amerika naturalisirter Bayer und umgekehrt ein in Bayern naturalisirter Amerikaner, wenn er sich ohne die Absicht, in sein neuerworbenes Vaterland zurückzukehren, in seinem früheren Vaterlande niedergelassen hat, keineswegs hiedurch allein schon die frühere Staatsangehörigkeit wieder erlangt, vielmehr hängt es, was Bayern anbetrifft, von Seiner Majestät dem Könige ab, ob er in diesem Falle die bayerische Staatsangehörigkeit wieder verleihen will oder nicht. Der Artikel 4 soll demnach nur die Bedeutung haben, dass derjenige Staat, in welchem der Ausgewanderte die neue Staatsangehörigkeit erworben hat, diesen nicht hindern kann, die frühere Staatsangehörigkeit wieder zurückzuerwerben; nicht aber, dass der Staat, welchem der Ausgewanderte früher angehört hat, denselben auch sofort wieder zurücknehmen müsse. Es hat vielmehr der im anderen Staate Naturalisirte nach den bestehenden Gesetzen und Vorschriften sich um Wiederaufnahme in sein früheres Vaterland zu bewerben, und dieselbe wie jeder andere Fremde neu zu erwerben. Doch soll es in seinem freien Ermessen

itself ready in all cases in which emigration has plainly taken place in good faith, to allow a mild rule in practice to be adopted.

2. It is hereby agreed, that when a Bavarian naturalized in America and reciprocally an American naturalized in Bavaria takes up his abode once more in his original country without the intention to return to the country of his adoption, he does by no means thereby recover his former citizenship; on the contrary, in so far as it relates to Bavaria, it depends on his Majesty the King, whether he will or will not in that event grant the Bavarian citizenship anew.

The article fourth shall accordingly have only this meaning, that the adopted country of the emigrant cannot prevent him from acquiring once more his former citizenship; but not, that the state, to which the emigrant originally belonged, is bound to restore him at once to his original relation.

On the contrary, the citizen naturalized abroad must first apply to be received back into his original country in the manner prescribed by its laws and regulations, and must acquire citizenship anew, exactly like any other alien. *But yet it is left to his own*

liegen, ob er diesen Weg einschlagen oder seine bisher erworbene Staatsangehörigkeit beibehalten will.

free choice, whether he will adopt that course; or will preserve the citizenship of the country of his adoption.

The two plenipotentiaries give each other mutually the assurance, that their respective Governments in ratifying this treaty will also regard as approved and will maintain the agreements and explanations contained in the present protocol without any further formal ratification of the same.

(L. S.) sgd.

(L. S.) sgd.

GEORGE BANCROFT.

D^r. OTTO FREIHERR VON VÖLDERNDORFF.

X.

CORRESPONDENCE &c.

ON OUR PROTEST AND ON THE BAVARIAN TREATY.

LETTER OF BARON VÖLDERNDORFF TO D^r MUNDE.

München, 29. June 68.

Verehrter Herr!

Aus dem von Ihnen unterzeichneten Protest d. d. Würzburg den 20. Juni l. J. ersehe ich, dass Sie mit mehreren Ihrer Mitbürger den Art. 4 des Vertrages zwischen Bayern und den Vereinigten Staaten

TRANSLATION.

D^r C. MUNDE.

Munich, June 29th 1868.

Dear Sir,

I see from the protest bearing your signature and dated Würzburg June 20th a. c. that yourself and several of your fellow-citizens do not correctly interpret the Article 4 of the treaty between Bavaria

von America nicht richtig auffassen. Aus dem zwischen mir und Herrn Bancroft gezeichneten Protocolle, welches mit dem Vertrage gleiche Kraft hat, werden Sie aber entnehmen, dass uns nicht einfällt, die von einigen übelwollenden und, bemerken Sie wohl, meist *reactionären* Zeitungen, sowie einigen von bureaukratischen Ideen nicht ganz freien Rednern des Norddeutschen Reichstages aufgestellten Interpretationen des Art. 4 anzunehmen, als ob ein Naturalisirter nach zwei Jahren sein durch Naturalisation erworbenes Bürgerrecht wieder verliere, wir haben ausdrücklich anerkannt, dass es im *freien* Willen eines Naturalisirten liegt, ob oder ob nicht er sein ehemaliges Bürgerrecht wieder erwerben oder sein neues beibehalten will.

Was aber die in Nro. 4 Ihres Protestes enthaltene Aufstellung betrifft, dass bei dieser richtigen Interpretation der Art. 4 keine Bedeutung hätte, so erlauben Sie mir zu erwidern, dass der Art. 4 die ganz nothwendige Consequenz des Art. 1 ist. Der Vertrag ist nemlich ein vollständiger Bruch mit dem bisher in Europa festgehaltenen Grundsatz, dass jeder Staat berechtigt sei, seine Eingebornen für immer festzuhalten, so dass z. B. der Bayer ein anderes

and the United States of America. You will, however, see from the protocol, made and signed by myself and Mr. Bancroft, and which has equal power with the treaty, that we have not the slightest idea of admitting the interpretations of Art. 4, as they have been given by some malevolent and, please to observe, *reactionary* journals, as well as by some speakers of the North German Diet, who are not quite free from bureaucratic (rod tape) ideas, as though a person naturalized would lose at the end of two years his citizenship acquired through his naturalization; we have expressly acknowledged that it shall lie in the *free* will of a naturalized person whether or not he will reacquire his former allegiance, or whether he will retain the new one.

As for the statement contained in Nro. 4 of your protest that in the face of the above correct interpretation the 4th Article has no meaning, you will permit me to reply that Art. 4 is the indispensable consequence of Art. 1. You should understand that the treaty is a complete rupture with the principle hitherto sustained in Europe that every state be entitled to holding its natives for ever, so that, for instance, a Bavarian could not acquire another citizen-

Bürgerrecht nicht erwerben könne, *bevor* ihn der bayerische Staat aus seinem Unterthanenverbande entlassen hat. Sie wissen, dass es gerade Herrn Bancroft's Verdienst ist, die neue Theorie begründet zu haben, wonach es als ein dem Individuum zustehendes Recht erklärt wird, die Staatsangehörigkeit zu wechseln, ohne dass ihn der Staat, in welchem er zufällig geboren ist, daran hindern kann. Diess spricht also Art. 1 aus; der Bayer kann Amerikaner werden, auch ohne dass er vorher aus dem Bayerischen Unterthanenverbande entlassen worden ist. Ebendesshalb aber kann es ihm auch nicht verwehrt werden, sein früheres Indigenat wieder zurück zu erwerben, und das ist der Sinn des Art. 4. Setzen Sie, ein Amerikaner zieht nach Bayern und lässt sich hier naturalisiren. Nun gefällt es ihm nicht mehr und er will wieder Amerikaner werden; nach dem *bisherigen* Rechte darf er diess nicht früher, als bis ihn der bayerische Staat seines Indigenates, das er durch Naturalisation erworben hatte, entlässt. Diese Be-

ship *before* the Bavarian state had dismissed him from his allegiance as a subject. You know that it is Mr. Bancroft's particular merit to have founded the new theory, according to which it is declared a natural right of the individual to change his allegiance to any country without the state in whose territory he was born being entitled to hinder him from it*. This Art. 1 declares: the Bavarian can become an American, if he chooses, without first being dismissed from his Bavarian allegiance. For this very reason he cannot be prevented from réacquiring his former „indigenat“, and such is the sense and the meaning of Art. 4. Suppose an American immigrates into Bavaria and becomes naturalized in that state. After a while he becomes displeased with the country and wishes to rebecome an American; according to the *law hitherto in observance* he could not satisfy his desire until the Bavarian state had released him from the indigenat which he had acquired through naturalisation. This restric-

* Much as we wish to allow Mr. Bancroft his great merits in his efforts to settle the difficulties between the U. S. and Germany with regard to the acknowledgment of naturalization by the German powers, we must deny his being the author of the above theory, which has been held to be correct by several of our statesmen before him, f. i. Mr. B's predecessor, Mr. Wright, and by the American people at large. Mr. Bancroft has, however, succeeded in seeing the theory acknowledged by the *Bavarian* government, in which he was heartily seconded by the latter. **M.**

schränkung hebt Art. 4 auf, der bayerische Staat kann ihn fortan an dem Rückkehrwerb nicht hindern.

Ich hoffe, Ihre Bedenken sind beseitigt, schreiben Sie mir gefälligst darüber und ob Sie sonst Zweifel haben. Der Vertrag wird für den gegenseitigen Verkehr so segensreich sein, dass mir jede Misskennung desselben leid wäre.

Mit Hochachtung

Ihr ergebenster

Frh. VON VÖLDERNDORFF,
Ministerialrath.

Herrn Dr. C. Munde in Würzburg.

D^r MUNDE TO BARON VÖLDERNDORFF.

Würzburg, 2. Juli 1868.

Verehrter Herr Ministerialrath,

Aus Ihrer Znschrift vom 29. v. M. sehe ich mit Bedauern, dass unser Protest missverstanden worden ist. Wir haben keine Absicht gehabt, gegen den Vertrag mit der königlich bayerischen Regierung,

tion is abolished by Art. 4; the Bavarian state cannot, hence forward, hinder him from the reacquisition of his former indigenat.

I trust, your apprehensions are removed; please write to me on the subject and state any doubts you may still have. The treaty will be such a blessing to the intercourse of the two countries that I should be very sorry any misconception should mar its merits.

Yours with respect

BARON VON VÖLDERNDORFF,
COUNCILLOR OF THE MINISTRY.

BARON VON VÖLDERNDORFF.

Würzburg, July 2^d 1868.

Dear Sir,

I see with regret from your letter of June 29th, that our protest has been misunderstood. Our intention has not been to protest against the treaty with the Royal Bavarian Government *as it has been con-*

wie er zwischen Ihnen und Herrn Bancroft *abgeschlossen worden* ist, und seit gestern erst in der *Süddeutschen Presse* uns vorliegt, zu protestiren. Unser Protest war gegen den Vertrag mit Norddeutschland gerichtet und traf den bayerischen, von welchem wir uns trotz aller Mühe keine Abschrift verschaffen konnten, nur eventualiter. Die Auslegung des Art. 4 durch das von *beiden* Bevollmächtigten unterzeichnete Schlussprotokoll, wie es die *Süddeutsche Presse* giebt, befriedigt uns vollkommen.

Wir verkennen keineswegs die Verdienste unseres Gesandten in dieser wichtigen Sache. Wenn der 4. Art. allgemeine Entrüstung unter uns hervorgerufen, so ist Herr Bancroft freilich selbst daran schuld. Der Artikel konnte und musste so gefasst werden, dass er in der Weise verstanden werden konnte, wie er nur nach mühsamer und ein wenig gewundener Interpretation verstanden werden kann. Ein diplomatischer Freund Herrn Bancroft's, welcher diesen gegen unsere Vorwürfe in Schutz nahm, gab doch zu, dass „Herr Seward keine officiële Interpretation &c. geben könne“, und „Mr. B's Treaty reads one way and is liable to be interpreted another by the Norddeutsche Bund, *when it may so please them*“.

cluded by yourself and Mr. Bancroft, and as we have known it since yesterday only. Our protest was directed against the treaty with Northern Germany, and related only eventualiter to the Bavarian treaty, of which we could not by any means procure a copy before. The interpretation of Art. 4 in the protocol, signed by both the treating parties, as the Süddeutsche Presse has it, satisfies us completely.

We by no means undervalue the merits of our ambassador in this important affair. If the 4th Art. has roused a general indignation among us, it is, he ought to confess it, his own fault. The Article could, and ought to, have been couched in such terms as to make it possible to understand it easily and in such a manner, as it can only be understood through a toilsome and tortuous interpretation. A diplomatic friend of Mr. Bancroft's, who made it a point to defend the latter, admitted to me that „Mr. Seward could give no official interpretation“ &c. and „Mr. B's treaty reads one way and is liable to be interpreted another by the Norddeutsche Bund, *when it may so please them*“.

Für Ihre gütigen Erklärungen, verehrter Herr Rath, sind wir eben so dankbar, als für den offenbar uns und der Sache freundlichen Sinn, welcher aus dem Schlussprotokoll und Ihren Zeilen an mich hervorleuchtet. Wenn der Fortschritt zum Besseren in den Händen so erleuchteter und von dem redlichsten Willen beseelter Beamten liegt, dürfen wir in der That der Zukunft unbesorgt entgegen sehen, selbst wenn unheimliche Gewalten neue Stürme über uns bringen sollten.

Gestatten Sie mir, diese Gelegenheit zu benutzen, um Ihnen meine aufrichtige Hochachtung und Verehrung auszudrücken.

Ich werde mich bemühen, das Missverständniss überall, wo es mir begegnet, sofort aufzuklären, und habe zu dem Ende schon gestern Schritte gethan.

Ich habe die Ehre zu sein

Ihr ganz ergebener

D^r CHARLES MUNDE.

*An den königlich bayerischen Ministerialrath
Freiherrn von Völderndorff zu München.*

We thank you as warmly, dear Sir, for your friendly explanations, as for the kind and favorable disposition you have shown towards us and our cause, a disposition which openly manifests itself as well in the protocol as in your lines to me. If the progress towards a better existence lies in the hands of statesmen and officials enlightened and animated like yourself, and penetrated by the most honest and liberal intentions, we may, indeed, look forward to the future without apprehensions, should even dark and hidden powers bring new storms upon us.

Permit me to express to you, on this occasion, my sincere esteem and regards.

I shall take care to clear up the misunderstanding wherever I meet it, and have taken steps to the purpose already.

I have the honor to be &c.

CHARLES MUNDE.

HON. GEORGE BANCROFT

U. S. AMBASSADOR, BERLIN.

Sir,

I have the pleasure to express to you, in the name of the citizens of this place, who protested against the 4th Article of your Treaty with North Germany, our entire satisfaction with the interpretation given to said Article through the *official* protocol signed by yourself and Baron von Völderndorff in the Bavarian Treaty. We congratulate you and ourselves on the improvement made, and only wish that a similar *official* document may soon disperse our apprehensions with regard to the North German Treaty and its possible interpretation by the Prussian Government and its employés, whom we do not quite so much admire as yourself.

We fully acknowledge your great merit, in breaking down obsolete laws, which barred the free intercourse between two friendly nations, and wish you all possible success in finishing the important mission you have undertaken.

To prevent misunderstandings, I shall mention that we saw the Bavarian Treaty for the first time yesterday, whilst our protest was signed June 20th, ten or eleven days before.

I have the honor to be with sincere regards,

Sir,

Your obdt. servt.

CHARLES MUNDE.

Würzburg, July 2^d 1868.

LETTER FROM THE EDITOR TO SENATOR SUMNER.

Würzburg, Bavaria, June 17th 1868.

Dear Sir,

Mr. Bancroft's Treaty with Count Bismarck concerning naturalized citizens of the U. S. materially affects the rights given to us by the Constitution.

The German original says in Article 4th:

„If a German naturalized in America settles again in North Germany, without the intention of returning to America, he shall be considered as renouncing his naturalization (so soll er als auf seine Naturalisation in den Vereinigten Staaten Verzicht leistend erachtet werden).“ And further: „The renoucement to the return may

be regarded as existing (der Verzicht auf die Rückkehr kann als vorhanden angesehen werden), when the person naturalized has resided for more than two years within the territory of the other party."

The English translation submitted to the President and Senate by Mr. Bancroft, as I find it in his despatches N° 41 and 43 to the State Department, on the contrary, reads*:

"If a German naturalized in America returns to the territory of the North German Union, and settles there permanently, he shall have no claim upon the protection of the government of the U. S." "The intention to take up a permanent residence shall (soll) ** be regarded as existing &c."

It is clear there is a difference in the meaning of the two ways of reading, and I have some doubt whether, had a correct translation of the 4th Art. been submitted to the whole Senate, the latter would have confirmed the treaty.

However, whether we read the article one way or the other, there is an infringement on our constitutional rights acquired by our naturalization, after serving our five years' apprenticeship. Being once received citizens of the United States, we *are* citizens for life, unless we renounce our rights voluntarily. There is no law made by Congress, with the consent of the People, which authorizes our Government to deprive a citizen, whether a native or a naturalized one, of his citizenship, or of any of the privileges belonging thereto, except with his own consent. Wherever a citizen may choose to live, and whatever may be the length of his absence from home, and his residence in foreign countries, he remains a member of the "sovereign people", whose government and representatives at foreign courts *owe* him protection. *It is their business, as servants of the people*: the time has not yet come — and I trust it never will — that they be its *masters*, though our ministers may, by mistake probably, speak of *American subjects* already! —

The treaty with the North German Union has been ratified. There is no help for it I can see. And although Mr. Bancroft's

* I had not, then, seen the official translation, as it appears in the transactions of the North German Reichstag, p. 1 of this pamphlet. Nor were the regulations of the Bavarian Treaty known, when I wrote this letter.

** That *shall* (soll) was removed, as Mr. Bancroft assured me afterwards, at his instance, and *may* (kann) put instead.

interpretation of it is very favorable to us, nay goes so far as to assert exactly the contrary of what the treaty says itself: the words of the treaty stand there, signed and sealed, and as Mr. Bancroft reads them one way, no one can prevent the government of the North German Union from reading it the other; and whilst in some future time, not very distant, our ministers and consuls may be found disputing the articles of the treaty with the Powers in Germany — we, the naturalized citizens of the U. S. after two years' residence in this country, are liable to be treated as it may please the foreign governments, whether we pay our taxes at home or not! — But there is no harm as long as the friendly relations continue between — Count Bismarck and Mr. Bancroft, backed by Mr. Johnson. *Après nous le déluge!* —

A thing has been done which is not right! Whatever may be the merits of Mr. Bancroft's treaty, to favor a *certain class* of naturalized citizens — those who owe military duty to the North German States — a blow has been struck *at all the rest*, a blow for which it is difficult to see a reason, and which appears so much the more hateful as it has, it seems, proceeded from our minister himself.

I have been assured, on excellent authority, that „Mr. Bancroft wanted to hit the *Jews*, who come to America to make money there and then return to Germany to stay, *without paying taxes to either country*„.

If that be so, as I have no reason to doubt, I can only regret that the republican minister did not follow Count Bismarck's example, who — Mr. Bancroft says in one of his letters to Mr. Seward — „took a large and liberal view of the whole subject, from the beginning.“ In fact, I could almost wish Count B. had been in Mr. Bancroft's place when the treaty was made! —

What, strike a blow at the constitutional rights of a whole class of citizens, because there are a few insincere ones among them, who manage to stand in the shade of the starspangled banner, without paying for it? And at the same time hit those who do pay, or who are exempt from paying — for the treaty makes no difference? Is this not the justice of king Herod, who slayed the children at Bethlehem in order to destroy the dreaded offspring of the House of David? Or like the dentist who pulled all a man's teeth for fear of missing the one that ached? Why, then, let the *natives* alone who pay no taxes? Are there not millions, who, trai-

tors as they were a short time ago, carried destruction into the bosom of the Union and caused the immense war debt to be contracted for which we are paying taxes, and who now enjoy the protection of our government at home and abroad? Or, is it right that an educated German, who shed his blood for the Union and for the abolition of slavery, should now stand below the ignorant negro, whom he helped to liberate from bondage? Shall he be compelled to interrupt, at the end of two years, his studies, his medical treatment, the education of his children, to return to America, where his means may not be sufficient to live, whilst the colored man and the former traitor may stay abroad all their lives long, without endangering any of their rights, or losing the protection of our government? And what are the few paltry dollars, which may be lost to our treasury, in comparison with the amount of gold imported in our country by the two hundred thousand emigrants who flock annually to the United States, of whose population they form quite a respectable portion? The American People,* in our House of Representatives, on General Banks' motion, have expressed their concurrence with the above principles (by 100 against 4 votes); and although we have the House and the People on our side, we are anxious to learn what the Senate will do, in the face of the resolutions taken by the House.

In the meanwhile, Mr. Bancroft has made another treaty with the Bavarian government, which, they say — for we are not allowed to know any particulars about it till it is too late to remonstrate — is more favorable to us than that with the Norddeutsche Bund. It may be so; but, after the sample he gave us, we have little confidence in Mr. Bancroft's treaty making — much as we respect him personally —, and we, who are directly concerned in the new agreement, most earnestly protest against any further curtailing of our constitutional rights. We want to be at liberty, like other citizens of the U. S., to go whither we please, to live where we please, without endangering any of our rights. If the government wishes to compel citizens abroad, who withdraw from their duties, to pay taxes, let *them* be hit by some legal measure; but do not make any difference between *native* and *naturalized* citizens, to which no law entitles you. *The same laws, the same duties — the same rights for all!*

I have been told by one of our consuls that a difference ought to be made between a native and a naturalized citizen, that the

Romans did so &c. — *Webster*, the great American lexicographer, defines Naturalization: „The act of investing an alien with the rights and privileges of a native subject or citizen.“ This covers the whole ground. The Romans did a great many things which we do not approve of: They held slaves, they sentenced Jesus Christ to crucifixion and burned his apostles; they had Emperors, &c. Besides, they were a conquering people, whilst we conquer chiefly by the power of liberal principles and insitutions. The more liberal we are, the more our population and power will encrease. And what does the whole population of the U. S. consist of but immigrants and the children of immigrants? There were only three millions of inhabitants in the United States when the Constitution was framed; whence come the other 33 millions we have now, and whence will the millions come who will soon double our population? Making such differences is not republicanism: it is the narrow mind of knownothingism. *Let us be one.* Stop dissension: we know what it leads to. We have got rid of the chief apple of discord; let us throw aside the other causes of dissension, and stand together *all for one and one for all*, against foreign powers, who do not love us, whatever their protestations of friendship may be. Or, have you forgotten what attitude they took, with but one exception, during the days of our adversity? The devil, may his initial be N or B, is constantly watching where he may discover a fissure in the body of our Republic, to drive a wedge in. We did not stoop *then*; pray do not stoop to them *now*, when we have no need to be afraid of any body — but ourselves. Beware of the air of courts, and let our ministers beware of it. *Soyons amis par distance!*

We all acknowledge very gratefully the action of the House, and hope the Senate will prevent the precedent, which has been given in Berlin, from being followed up elsewhere. Justice to us now will save a great deal of trouble to American citizens and government in future. — To prevent loss of time, I send this from my own pen, till I can address you in the name of all the citizens of this place. Whatever you can do to protect our rights will be cheerfully acknowledged by all.

I remain with sincere regard

Hon. Charles Sumner

United States Senator
at Washington.

Yours very truly
CHARLES MUNDE.

5. SENATOR SUMNER'S ANSWER.

Senate Chamber, July 8th 1868.*Dear Sir,*

I have your letter of June 17th in reference to the recent treaty with North-Germany. I need not say that I have read it with interest, for the subject is important, and I have spared no pains to make myself familiar with it, but you will pardon me if I say frankly, that I cannot see it as you do.

You speak of the clause which provides that a citizen of either country who returns to his native land with no intention of going back to the country of his adoption, shall be held to have renounced his citizenship in the latter, as a violation of the constitutional rights of naturalized citizens.

The constitution, as you are aware, gives no rights to naturalized citizens in express terms. The control of the whole matter is in the hands of Congress, which may „establish an uniform rule of naturalization“, and prescribe the conditions on which citizenship may be acquired, and may be forfeited.

The object of naturalization is to give to foreigners who intend to reside here permanently, to cast their lot with us, the rights of our citizens. I think it is too much to suppose that it was intended to relieve the citizens of other countries from the performance of the duties, which their governments see fit to impose on them. Does not a native of Germany, who leaves this country with no intention of returning, cease to be in fact our citizen? Can he complain if he loses the name? He has his choice. He may be a citizen of the United States or of Germany, but if he can claim the privileges of a citizen in both countries, and perform the duties in neither, his position is anomalous, the constitution gives the naturalized citizen greater rights than it can give the native.

The clause you speak of was intended to guard against fraudulent naturalization, where for example, a German, who never intends to make America his home, becomes naturalized here for the purpose of avoiding his duties in his native land, and as we looked at the matter here, it seemed a salutary provision. The two years' residence is only *prima facie* evidence of an intention to remain, and may be rebutted by proof of the contrary.

Perhaps in the light of these suggestions you will be kind enough to review your opinion of the treaty, for I know the liberality of your mind, and believe that you will see it as we do: a treaty which promotes the best interests of all our citizens.

Meanwhile, believe me, dear Sir,

Faithfully yours &c.

CHARLES SUMNER.

Dr. Charles Munde.

6. THE EDITORS' REPLY.

Würzburg, July 28th 1868.

Dear Sir,

I thank you most cordially for thus early answering my letter of June 17th about the North German treaty.

I see I have been partly misunderstood, and partly I cannot agree with you, though I earnestly wish to do so: The man whose shoes pinch him feels differently from the maker of the shoes.

I do not mean to claim that an American citizen, whether a native or a naturalized one, should be allowed to hold double citizenship. By taking a new allegiance he gives up the old one, and if he returns to the old allegiance, he, of course, gives again up the new one. But according to the Declaration of Independence, and the principle expressed and held by our people and government, under the Constitution, such change of allegiance depends on the own and free will of the individual, not on the will and dictates of either or both governments. This is just the point at issue. A man may change his allegiance if, in the pursuit of happiness, he thinks it best to do so, and when, after a number of years, he finds it better for his interest to return to his former allegiance, nobody must have the right to hinder him; *but no one has the right to compel him.*

To wish to hold *both* citizenships, and to fulfil his duties in *neither*, is unreasonable in a man, and cannot be permitted. But no plenipotentiary, or government, or Senate, or Congress, have the right to *treat away* his citizenship, or part of it.

The protest I sent you says about all we wanted to say. I am sorry it has — either by mistake or by bad will — been understood, in some quarters, to be directed against the *Bavarian* treaty,

as it now lies before us. By reading the protest attentively, any one can clearly see that it is not the case. The articles of the treaty were kept secret till it had been ratified, and we never saw it till ten or eleven days after the signing of our protest, which we hurried, because we wanted, if possible, to prevent the ratification of the Bavarian and other treaties, *in case they were no better than that with North Germany*. Happily the *official* interpretation given in the protocol attached to the Bavarian treaty, and *signed by both treating parties*, is quite satisfactory, and we only wish that a similar protocol be appended to the North German treaty, by which all our objections, as well as all danger of difficulties between the two governments, would be removed.

The interpretation of the fourth article in the Bavarian „Schlussprotocoll“ shows the treating parties to have been perfectly able to understand and perform their noble task of pulling down a barrier between the two friendly people, which had existed too long, whilst the Prussian treaty and its explanations show a smallness which disfigures its other merits.

I am glad that, by the ratification of the Bavarian treaty, our government has reached the platform of the signers of the Declaration of Independence and of the framers of the Constitution, and that the Senate too has no objection to manifesting a more liberal turn of mind.

We have just begun printing a pamphlet, which I have written on the subject, and in which I have expressed my ideas more at large than a letter allows it. I shall take the liberty of sending you a copy, and trust you will be kind enough to sacrifice a few leisure hours in reading it. Perhaps we shall, then, come to a closer understanding.

In the mean time I remain, with sincere esteem,

Very gratefully yours

CHARLES MUNDE.

Hon. Charles Sumner,
U. S. Senator.

7. LETTER FROM THE STATE DEPARTMENT.

*Department of State.**Washington, July 27th 1868.*

CHARLES MUNDE, ESQUIRE,
WÜRZBURG, BAVARIA.

Sir: — Your letter of the 20th of June last, and its printed accompaniment, relative to the 4th article of the Treaty signed at Berlin on the 22nd of February 1868 by Mr. George Bancroft, has been received.

I am, Sir,

Your obedient servant
F. W. SEWARD.

8. EXTRACTS FROM LETTERS TO THE EDITOR FROM SOME OF OUR PUBLIC MEN AND CONSULS.

a. D^r C. MUNDE.

..... June 18th.

Dear Sir: — I have received a reply from the Department of State in regard to the late Bancroft Treaty. — *Mr. Seward* says *the Department of State cannot give an official interpretation to the Treaty*, but encloses the following papers showing the intent of the same (See Chapt. IV & V). After you have read them, please return them to me as soon as convenient.

The trouble with Mr. Bancroft's treaty is that it reads one way, and is liable to be interpreted another by the Norddeutscher Bund, when it may so please them &c. &c.

b. D^r MUNDE.

June 15th.

Dear Sir: — In reply to your inquiry of June 12th with request for a copy of the Treaty with Bavaria, I beg to inform you that I have not been furnished with a copy myself from the Foreign Office here, though the same was promised me at once through Mr. Bancroft. It can hardly, however, be of very much interest, until it comes in force by the confirmation of the U. S. Senate, which it has not yet received. When this confirmation takes place, I shall

be able to advise you, and shall give the particulars for the guidance of the U. S. Citizens (of foreign birth) in your vicinity. Meantime I may say that the Treaty as preliminarily agreed upon is more favorable to us than the Treaty with North Germany.

I am yours truly &c.

c. D^r MUNDE.

July 17th.

Dear Sir There is no *formal protocol* bearing signature attached to the North German Treaty. The discussion in the North German Parliament and explanations by Count Bismarck upon the meaning or construction to be placed upon some ambiguous or equivocal passages constitute what, for want of a more precise understanding, is termed an *informal protocol*. I think it would be desirable to attach it formally to the treaty and have it accepted as part and parcel thereof, and I suppose, if practicable, *it will be done*. &c.

d. D^r MUNDE.

July 1st.

. The Senate, it is said, under request of the State Department, have rejected or tabled Banks' Bill. The joint resolution of Congress embodying the principle of the Bill is considered sufficient and more simple in the application, as our Executive must at once take action when occasion presents itself. I presume, however, *upon our own exhibition of firmness*, and the growing good sense, in those matters of foreign powers, that there will be no necessity for having recourse to it.

e. D^r MUNDE.

July 4th.

. There is a context or kind of *protocol*, I am informed, attached to the North German treaty, though not originally forming a part of it.

I have written to Mr. Bancroft for explanations upon it, and shall advise you when informed myself. Mr. B. is not at present at Berlin, and it may be that I shall have to wait some days &c.

f. D^r MUNDE.

11. Juli.

Ich schicke Ihnen heute unter Kreuzband den Bericht der betreffenden Commissionen des Norddeutschen Bundesraths, der die Genehmigung des Naturalisations-Vertrags zwischen den Vereinigten Staaten und Norddeutschland empfiehlt, so wie den stenographischen Bericht der Verhandlungen im Reichstage, die der Genehmigung seitens dieses Körpers vorangingen. Sonst habe ich nichts sich auf den Vertrag Beziehendes aufreiben können. Wenn Mr. Bancroft von einem Protokoll gesprochen, so wird er wohl auch nichts Anderes gemeint haben. Gedruckte Memoranda über die Verhandlungen zwischen Mr. Bancroft und dem Legationsrath Koenig liegen nicht vor. * &c. &c.

g. D^r MUNDE.

20 June 1868.

Dear Sir: — I have now your letter of 15th. The treaty remains in the hands of the King of Bavaria and I cannot get a copy, tho' promised me at the time it was signed by Mr. Bancroft. The fact is that the foreign office here expected the King to return it immediately after he had read it, but for some reason he retains it, and court ceremonial does not permit that he be asked for it! — I may mention to you, however, in reference to *the section which occasioned such strong and just objections in the North German treaty*, that Mr. B. himself told me in the Bavarian treaty this was otherwise expressed, and that *the right of German born citizens was upheld, at least, to this extent that they did not forfeit U. S. citizenship by return and residence of any length here, as inferred from the North German treaty*. I do not know how this difference from the North German treaty is expressed in the Bavarian treaty, but I can assure you that Mr. B. gave me assurance of it in a conversation I had with him previous to his signing, in which I took occasion to mention the objections expressed against his treaty with North Germany.

* I send you the report of the United Committees of the North German Reichsrath (Council) recommending the consent to the naturalization treaty &c., as well as the stenographical report of the discussions in the N. G. Diet, which preceded the consent of that body. If Mr. Bancroft spoke to you of a *protocol*, he cannot have referred to any thing else. *There exist no printed memoranda on the transactions between Mr. Bancroft and the privy councillor Koenig.*

If there be any unfavorable condition in the treaties, it must be attributable to some oversight on the part of Mr. B. It certainly cannot be considered intentional, for he has been, during his long and useful public career the able and consistent friend of foreign born citizens. In his great discussion with the English Government in 1849 he laid down the principle that the adopted citizen became a *natural born* for all purposes that concerned foreign governments. And this, I need hardly say, has been the unwavering position of the U. S. Government. There is no distinction made in the Constitution or United States Statutes between the foreign and native born, except in the mere eligibility for the office of President. If any wrong be done, or may be done, by this treaty, you may depend that it will be rectified. *It is the interest of the United States' Government and People to encourage and protect immigrants*; it is, I am sure, also their fixed purpose. I do not say this to set you aside in any way from your present policy, *it is your duty to guard against a possible wrong*, and in this you may rely on the assistance of our public men, as well as our executive authorities.

. Yours truly &c.

H. D^R MUNDE.

June 26th 1868.

Dear Sir: — Your letter of 24th is now to hand. I received only this morning a full official copy of the treaty and explanatory protocol. The latter contains the accepted and agreed on meaning, and is the *only* document, therefore, which is to be regarded in application. I think you will find that it confirms what I have stated of Mr. Bancroft's views and intents in the treaty. In this respect it is very much superior to the treaty with North Germany, and free from all objection that might have been justly urged against that *That the Treaty and Protocol conflict in sense does not concern us, the treaty making powers have agree'd that the protocol contains the true meaning and application, and we, therefore, can only regard that.*

I shall send you in a day or two the full copy of the treaty and protocol &c.

i. D^r MUNDE.

July 18.

Dear Sir: — Your favor of 3^d was duly received. Numerous engagements have prevented my earlier reply. I am much obliged for the protest you sent, and as the same has been mislaid, I would be obliged for another copy. I think the Bavarian Treaty is all right. *Mr. Bancroft has seen his mistake in the Prussian treaty, and corrected it.*

Mr. P. gave some valuable information to Mr. Bancroft, before the treaty was signed. &c.

k. D^r MUNDE.July 29th.

I saw Mr. B. at a dinner given to him by He was overwhelmed with attentions and flattery and he did not remain behind them in his expressions of admiration. I saw but little of the statesman *He is the first minister of the U. S., I believe, at whose suggestion our Government, to please a foreign power, attempted to deprive an American citizen of his rights.* Whatever else may speak in his favor, we ought never to forgive him *that*. — Please send me a few more of your protests, &c. &c.

l. D^r MUNDE.Aug. 1st.

I have known Mr. Bancroft for many a year, and always found him sound in regard to external politics. They say Count B. *overreached* him. I do not know what to think of it. There cannot be a doubt but that the third alinea of Art. 4 of the Treaty is a flagrant wrong done to naturalized citizens of the U. S. — I entirely approve of your protest. I only wonder why no more have been raised in all parts of Germany. They must be asleep. We owe you all a great many thanks. &c.

XI.

THE PRESS AGAIN.

1. Frankfurter Zeitung, Samstag 4. Juli 1868.

Aus Würzburg geht uns eine Mittheilung zu, wonach der Protest der dort sich aufhaltenden Deutsch-Amerikaner, so weit er auf den *bayerisch-amerikanischen Staatsvertrag* bezogen werden konnte, zurückgenommen wird. Das Zusatz-Protokoll vom 26. Mai zu dem bayerischen Verträge hat die Bedenken beseitigt, welche gegen den Wortlaut des mit dem Nordbunde geschlossenen Vertrages erhoben worden waren. Wir brauchen wohl kaum hinzuzufügen, dass die Berechtigung der Einwürfe, welche von der Presse und namentlich auch von uns gegen den Wortlaut des von Herrn Bancroft mit dem Nordbunde abgeschlossenen Vertrages geltend gemacht wurden, nicht leicht eine kräftigere Bestätigung hätte finden können, als darin, dass dieselben durch eine dem bayerischen Verträge angehängte authentische Interpretation erledigt wurden. Damit tritt die Nothwendigkeit einer gleichen Interpretation in Bezug auf den Norddeutschen Bund aber auch um so schärfer hervor.*

* We receive from Würzburg a communication, according to which the Protest raised by the German-Americans residing in that city is recalled as far as it regards the *Bavarian-American treaty*. The Protocol of May 26th added to the Bavarian treaty, has removed the apprehensions produced by the terms of the treaty concluded with the Northern Confederation. We need scarcely mention that the correctness of the objections made by the Press, including ourselves, to the wording of Mr. Bancroft's treaty with North Germany, could scarcely have found a more powerful confirmation than that the same have been removed in the Bavarian treaty by the authentic interpretation appended to it. *Hereby the necessity of a similar interpretation of the treaty with the North German Confederation is pointed out so much the more forcibly.*

Würzburg, 2. Juli. Herr *Charles Munde**, dessen Protest in Sachen des bekannten deutsch-amerikanischen *Vertrages* wir vor Kurzem erwähnten, schreibt uns:

Unser Protest hat, wie ich sehe, zu Missverständnissen Veranlassung gegeben. Den bayerischen Vertrag haben wir gestern zum ersten Male zu Gesicht bekommen. Wir konnten also nicht wohl 10 oder 12 Tage vorher gegen dessen Wortlaut protestiren. Unser Protest war gegen den 4. Artikel des *Norddeutschen Vertrags* gerichtet, und nur für den Fall, dass der bayerische und andere süd-deutsche Verträge eben so lauteten, auch gegen diese. Nun ist aber dem bayerischen Verträge, wie ihn die süddeutsche Presse unter gestrigem Dato bringt, ein von beiden contrahirenden Mächten, resp. deren Bevollmächtigten, unterzeichnetes Schlussprotocoll beigegeben, welches den Vertrag, und namentlich den anstössigen 4. Artikel auf eine Weise erläutert, welche uns vollkommen zufrieden stellt. Dass der Wortlaut des Artikels mit der Interpretation auch hier einigermassen im Widerspruche steht, kann uns keine Besorgnisse machen, da die letztere officiell ist und allein als Richtschnur für die praktische Anwendung des Artikels dienen kann. Die bayerische Regierung ist unserem Gesandten offenbar auf die freundlichste und red-

* Mr. *Charles Munde*, whose protest against certain regulations of the wellknown German-American Treaty we mentioned a short time ago, writes to us: „Our Protest has, I see, given rise to misunderstandings. We saw the Bavarian treaty yesterday for the first time. Therefore we could not protest against its terms 10 or 12 days before. Our protest was directed against the 4th Article of the *North German treaty* and *only in case* that the Bavarian and other South German treaties were worded in the same manner, also against these. The Bavarian treaty, as the *Süddeutsche Presse* brings it under yesterday's date, has a *formal protocol*, signed by both the treating powers, i. e. by their plenipotentiaries, appended to it, which explains the treaty, and more principally its obnoxious fourth article, in a manner perfectly satisfactory to us. The conflict between the text of the treaty and the interpretation, which exists also to some degree in this document, does not give us any apprehensions, the interpretation being *official* and the sole guidance in the practical application of the article. The Bavarian Government has evidently

lichste Weise entgegengekommen, und können wir nur derselben und den Beamten, welche die Verhandlungen gepflogen, für den Fortschritt, welchen sie in der Freiheit des Verkehrs zwischen zwei verwandten Voelkern angebahnt, unseren aufrichtigen Dank sagen. — Wir wünschen nur, dass ein ähnliches officielles Protokoll die Befürchtungen zerstreuen möchte, welche Herrn Bancrofts einseitige und unofficialle Auslegungen desselben Artikels im Vertrage mit dem Norddeutschen Bunde um so weniger zu beseitigen vermögen, als der bekannte Pflichteifer der preussischen Beamten andere Auslegungen, und durch diese Gefährdung der constitutionellen Rechte amerikanischer Bürger früher oder später erwarten lassen darf. Sind wir deutschgeborene Bürger der Vereinigten Staaten auch noch in dieser Richtung sicher gestellt, so wollen wir gerne unseren Protest widerrufen. Bis dahin halten wir uns nicht nur für berechtigt, sondern auch für verpflichtet, Einer für Alle und Alle für Einen einzustehen.“

2. *Würzburger Anzeiger*, 3. Juli 1868.

In Betreff des *Protestes* der hier lebenden deutsch-amerikanischen Bürger gegen Art. 4 des *bayerisch-nordamerikanischen Vertrages* (s. vorgestrige Nummer unseres Blattes) theilt uns Herr Dr. *Charles Munde* mit, dass der erst seit ein paar Tagen veröffentlichte Vertrag des Herrn Bancroft (amerikanischen Gesandten) mit der königl.

met our minister half way in the most friendly and honest manner, and we can only express our sincere thanks to said government and the employés concerned in the transactions, for thus promoting progress in the free intercourse of two friendly nations. — We only wish* that a similar official protocol may soon remove all the fears, which Mr. Bancroft's onesided and inofficial interpretations of the North German treaty are the less able to appease, as the well known officious zeal of the Prussian employés will sooner or later lead to different interpretations, and, through them, to infringements upon constitutional rights of American citizens. A soon as we, the German born citizens of the United States, are perfectly safe in that direction, we shall cheerfully cancel our protest. Till then, we not only deem ourselves justified, but we think it our duty, to stand up one for all and all for one.“

bayerischen Regierung den Herren zur Zeit der Erlassung ihres Protestes (20. Juni) nicht bekannt gewesen sei und sie auch trotz aller ihrer Mühe keine Abschrift davon erhalten konnten, ferner, dass ihr gegen den 4. Artikel des *norddeutschen* Vertrags gerichteter Protest eine Verwahrung gegen *Aufnahme* desselben Artikels in den *bayerischen Vertrag* sein sollte, welcher letztere nun allerdings für die in Bayern geborenen amerikanischen Bürger besser ausgefallen ist, als der norddeutsche. „Der Unterschied — schreibt uns Herr Dr. Munde — ist hauptsächlich, dass das Schlussprotokoll im bayerischen Vertrage dem Artikel 4 eine offizielle Auslegung gibt, welche uns vollkommen zufrieden stellt, obschon es schwer ist, sie aus dem Wortlaute des Artikels selbst herauszulesen; während ein ähnliches zufriedenstellendes, von beiden kontrahirenden Theilen unterzeichnetes Schlussprotokoll bei dem norddeutschen Vertrage gar nicht existirt und, trotz aller einseitigen günstigen Auslegungen, die staatsbürgerlichen Rechte der deutsch-amerikanischen Bürger gefährdet bleiben. Personen, welche sich für diese Angelegenheit interessiren, erlaube ich mir vorläufig auf eine Broschüre aufmerksam zu machen, welche ich in diesen Tagen über diesen Gegenstand herauszugeben beabsichtige.“

3. *Beilage zur Allgemeinen Zeitung, 11. Juli 1868.*

Das amerikanische Bürgerrecht und der Staatsangehörigkeitsvertrag vom 22. Februar 1868.

γ Unterm 22. Febr. d. J. wurde in Berlin, durch George Bancroft als Gesandten der Vereinigten Staaten beim Norddeutschen Bund und geheimen Rath Bernhard König als Bevollmächtigten des letztern ein Vertrag über die Staatsangehörigkeit der Unterthanen beider kontrahirenden Staaten, und ein ganz gleichlautender Vertrag ward mit Bayern abgeschlossen, von diesem am 26. Mai und vor wenigen Tagen

* On the 22^d of Febr. a. c. there was concluded, at Berlin, by George Bancroft, as Envoy of the U. S. with the North German Confederation, and Privy Councillor Bernhard Koenig, as plenipotentiary of the latter, a treaty on the naturalization of subjects of the two contracting states, and a similar treaty was concluded with Bavaria, which was ratified by the letter on the 26th of May, and

von den Vereinigten Staaten ratificirt. Die Bestimmungen dieses Staatsvertrags greifen in mancher Beziehung in das bestehende Recht ein.

In den Vereinigten Staaten gibt es bekanntlich nicht ein Bürgerrecht dieses oder jenes Staats, sondern nur ein Unionsbürgerrecht. Dieses ist die Vorbedingung zur Ausübung politischer Rechte, nur Ausnahme ist es, wenn der Staat Ohio jedem männlichen volljährigen Einwohner active Wahlfähigkeit zugesteht. Erworben wird das Bürgerrecht durch Heirath, Geburt und Naturalisation. Jedes Kind, das innerhalb des Gebiets der Union zur Welt kommt, ist Bürger der Union. Nach diesem Satze des frühern Rechts, wovon nur Ausnahmen für die extritorialen Personen, die Indianer und Farbigen galten, wurden sogar Kinder von Fremden, die sich nur zeitweilig in Amerika aufhielten, Bürger der Vereinigten Staaten. Erst durch die neuestens gegen den erklärten Willen des Präsidenten zum Gesetz erhobene Civil-Rights-Bill ist (§ 1) bestimmt: Alle in den Vereinigten Staaten gebornen Personen, die nicht Unterthanen einer fremden Macht sind, sind Bürger der Vereinigten Staaten. Für die im Auslande zur Welt kommenden Kinder von Amerikanern gilt der Satz,

a few days ago also by the U. S. The regulations of said treaty encroach in several respects upon the existing law.

There exists not in the U. S. a *citizenship* of the different states, *but only one for the entire Union*. This citizenship is the condition of the exercise of political rights; the state of Ohio, granting the right to vote to every male inhabitant who has attained the age of 21, is a mere exception. Citizenship is acquired through marriage, birth and naturalization. *Every child born within the territory of the Union* is a citizen of the Union. According to this principle of the former law, of which there were only exceptions for extritorial persons, Indians and colored people, even children of foreigners who were residing only for a time in America become citizens of the U.S. The new civil-rights-bill*, which has become a law over the veto of the President (§ 1), states that: All persons born in the United States who are no subjects to a foreign power, are citizens of the U. S. For children of Americans born abroad the rule is that those coming

*) See 14th Constitutional Amendment, published as part of the Constitution on the 22^d of July a. c. page 00.

dass eheliche Kinder dem Vater, uneheliche der Mutter folgen, wenn nur Vater oder Mutter früher eine Zeitlang in Amerika gewohnt hat. Dieser Satz wurde durch Gesetz vom 14. April 1802 eingeführt, jedoch nur für solche Personen anwendbar erklärt, welche bei Erlassung desselben schon Bürger waren. Da also dieses Gesetz nur noch für wenige Personen anwendbar sein wird, ein neueres Gesetz bis jetzt nicht erlassen wurde, so kommt nach einer allgemeinen Rechtsregel das ungeschriebene Recht (common law) zur Anwendung, das jedoch hierüber keine klaren Bestimmungen enthält.

Die Naturalisation ist ausschliesslich Sache der Union, und wird auf Grund von Art. 1, Sect. 8, § 4 der Verfassung nach dem Gesetz vom 26. März 1790 verliehen.

Innerhalb des Bürgerrechts gibt es keine Unterschiede, insbesondere stehen die Naturalisirten den Eingebornen vollkommen gleich, nur bezüglich der Wählbarkeit zu den höchsten Würden gelten für erstere gewisse Ausnahmen.

Bezüglich des Verlustes des Bürgerrechtes gilt als oberster Grundsatz der aus dem alten englischen Recht adoptirte Satz: dass niemand eigenmächtig aus dem Unterthanenverbande dem er einmal angehört sich losreissen kann (once a subject always a subject).

from a legal marriage follow the father, illegal ones the mother, if either the father or the mother has lived for some time in America. This principle was introduced through the law of 14th April 1802, but interpreted as applicable to such persons only who were citizens at the time of the publication of said law. The law being applicable, now, to few persons, only, and a new law not having been made, according to a general rule, the common law must decide, which, however, has no distinct regulations on the subject.

Naturalization is exclusively the business of the Union, and is conferred, according to the law of 26th March 1790, made on the ground of Art. I. Sect. 8, § 4 of the Constitution.

There is no difference in citizenship: naturalized citizens are on perfect equality with native citizens; there are only certain exceptions with regard to the eligibility of the former for the highest offices.

In regard to the loss of citizenship the principle, adopted from the old English law, that no one can arbitrarily break loose from the allegiance to which he belongs (once a subject always a subject),

Auch in den europäischen Staaten wurde die einseitige Austritts-erklärung als unwirksam behandelt, die Entlassung aus dem Staatsverband jedoch in der Regel leicht ertheilt. Jener Grundsatz, der in seiner ganzen Schroffheit in England gilt, wo sogar ehemalige englische Unterthanen die längst das amerikanische Bürgerrecht erlangt hatten, als sie im Krieg in englische Gefangenschaft geriethen, als Hochverräther behandelt wurden, ward zwar in Amerika nicht in dieser Ausdehnung angewandt, doch neigte man sich früher zur strengern Interpretation. Jetzt wird es als offene Frage angenommen: ob jemand auf das Unionsbürgerrecht einseitig verzichten könne? So viel steht jedoch fest dass niemand gegen seinen Willen des Bürgerrechts verlustig werden kann. Weder durch richterliches Urtheil, noch durch Entscheidung einer Verwaltungsbehörde, noch durch lange Abwesenheit, noch durch Unterlassung irgendwelcher Leistungen kann das Unionsbürgerrecht verwirkt werden. Obwohl hierüber keinerlei positive Bestimmung vorhanden ist, kann dieser Satz doch als allgemein geltendes Gewohnheitsrecht bezeichnet werden.

is valid. Also in the continental states of Europe the onesided renunciation of allegiance was treated, as ineffective, though the permission to emigrate was granted without much difficulty. The above principle, which is upheld in all its severity in England, where former English subjects who had long ago acquired the American naturalization, when made prisoners of war, were treated as traitors towards England, has never been followed up to that extent in America; however the government inclined formerly to a severer interpretation than now. In the present time it is considered an open question: whether a person may be allowed to renounce his allegiance to the Union at his option or not? *So much is certain that no one can be deprived of his citizenship without his will and consent. Neither through the sentence of a court of justice, or through a decree of the administration, or through a prolonged absence, or through the neglect of any kind of duty, can the U. S. citizenship be forfeited.* For, although there is no positive regulation or law on the subject, this principle may be looked upon as a law sanctioned by general practice.

Diese Bestimmungen des geltenden Rechts sind durch Art. 4 des neuen Vertrags wesentlich alterirt worden. Hiedurch wird die Präsumtion eingeführt, dass ein in Amerika naturalisirter Bayer, wenn er sich in Bayern mit der Absicht nicht mehr zurückzukehren niedergelassen hat, oder nach einem Aufenthalt von zwei Jahren, als auf seine Naturalisation in den Vereinigten Staaten und ebenso umgekehrt Verzicht leistend erachtet werden soll. Durch diesen exorbitanten Satz ist nicht nur eine bedenkliche bis dahin unbekannte Unterscheidung zwischen eingebornen und naturalisirten Bürgern in das öffentliche Recht eingeführt, sondern auch der letztere ohne sein Zuthun plötzlich in eine schlechtere Lage versetzt. Während der Eingeborne niemals gegen seinen Willen des Bürgerrechts verlustig werden kann, soll diess jetzt mit einemmal bei dem Naturalisirten möglich sein. Gerade dadurch hatte sich bisher die Regierung der Vereinigten Staaten stets ausgezeichnet, dass sie in allen Beziehungen den gleichen Schutz allen Bürgern im Ausland angedeihen liess, ohne die Grundlage des Bürgerrechts zu untersuchen. Dass dieser Satz ganz gegen den Willen der Gesetzgebungsfactoren in den Vertrag aufgenommen wurde, ergibt sich wohl daraus, dass in die Civil-Rights-Bill keine darauf bezügliche Bestimmung auf-

These regulations of the law in force have been essentially altered by Art. 4 of the new treaty (here follows the article as stated p. 4). Through it the assumption is introduced that a Bavarian naturalized in America on settling again in Bavaria with the intention not to return, or after a residence of two years, shall be deemed as renouncing his naturalization in the U. S. (and vice versa). This exorbitant principle not only introduces into the public law a dangerous and hitherto unknown difference between native and naturalized citizens, but the latter are also, unexpectedly and without any fault of their own, placed in a very bad position. Whilst the native can never lose, against his will, his citizenship, the naturalized citizen may all of a sudden be deprived of it. The U. S. government having, hitherto, particularly distinguished itself by granting the same protection to *all* its citizens abroad, without first examining the basis of their citizenship, we may conclude that this principle was admitted entirely against the intention of the legislators, as no similar clause was introduced into the Civil-Rights-Bill mentioned above. Also the

genommen wurde. Auch ist damit jenes Gesetz von 1802 verletzt, dessen Grundsatz übrigens ganz allgemein angewendet ward. Es bedarf keiner weitem Ausführung, dass durch diesen Art. 4 die Privatrechte der naturalisirten Amerikaner, die sich in Deutschland aufhalten, verletzt worden sind, und da nach klarer Bestimmtheit der Verfassung, Art. 6 § 2, ein von dem Präsidenten und dem Senat abgeschlossener Staatsvertrag oberstes Gesetz des Landes sein soll, so hat auch das Repräsentantenhaus keine Gelegenheit jenen Fehler wieder gut zu machen.

Die in Deutschland lebenden Amerikaner werden sich diese Schmälerung ihrer Rechte nicht ohne weiteres gefallen lassen. Schon am 20. Juni haben die in Würzburg wohnenden Amerikaner in einer Resolution feierlich gegen diesen Eingriff in ihre Rechte protestirt, und ohne Zweifel wird die Sache bei der zu Anfang Octobers abzuhaltenden Sitzung des Court of Claims in Anregung gebracht werden. Bei diesem Gerichtshofe können nämlich Klagen gegen die Union auf Grund eines Staatsvertrags angebracht werden. Der Gerichtshof fällt kein Urtheil, sondern erstattet dem Congress Bericht über die streitige Frage, und legt demselben den Entwurf des zu fassenden Beschlusses vor. Seit dem Gesetz vom 3. März 1863 kann eine solche Ent-

law of 1802 is thereby infringed upon, the principle of which has been generally applied to practice. We need scarcely say that through Art. 4 the private rights of naturalized Americans residing in Germany have been encroached upon, and as, according to a clear regulation of Art. VI. §. 2 of the constitution, a treaty concluded by the President and the Senate is to be a supreme law of the country, *the House of Representatives has no opportunity of repairing the mistake.*

The Americans living in Germany will not patiently submit to this curtailing of their rights. On the 20th of June already the Americans residing in Würzburg have solemnly protested in a resolution against this encroachment upon their rights, and we have no doubt but that the matter will be brought before the Court of Claims during its October session. The latter is the court where complaints originating in a treaty can be made against the Union. The court does not pronounce a sentence, but reports to Congress on the question at issue, and submits a draught of the resolution to be taken. Since the law of March 3, 1863, such a resolution, if it sets up a prin-

scheidung, wenn sie ein Princip aufstellt, das für das Verfassungs- oder Verwaltungsrecht eine grosse Bedeutung hat, durch Appellation vor das Obergericht der Union gebracht werden.

Bezüglich des mit Bayern abgeschlossenen Vertrags gilt dies freilich nicht, auch wurde durch eine Erklärung des Dr. med. Charles Munde vom 1. Juli jener Protest zurückgenommen. In dem erläuternden Protokoll nämlich ist zu Art. 4 bemerkt: dieser Artikel habe nur den Sinn, dass ein solcher Amerikaner oder Bayer, wie er darin näher bezeichnet ist, nicht durch die Niederlassung allein wieder seine ehemalige Staatsangehörigkeit erlange, sondern dass dieselbe stets wieder verliehen werden müsse, und dass ihn an diesem Erwerbe der neue Staat nicht hindern könne, er habe vielmehr, wie jeder Neueingewanderte, sich um Wiederaufnahme in sein früheres Vaterland neu zu bewerben. Schliesslich ist noch beigesetzt, dass es in seinem freien Ermessen liegen soll, ob er diesen Weg einschlagen oder seine bisher erworbene Staatsangehörigkeit beibehalten will.

Es erhellt, dass durch diese erläuternde Erklärung nicht der Art. IV. des Vertrags näher praecisirt, sondern dass das gerade Gegentheil davon bestimmt ist. Wenn es eben in eines jeden freiem

ciple of great importance to the constitutional or administrative right, may be brought by appeal before the supreme Court of the Union.

All this does not apply to the treaty made with Bavaria; also, by a declaration made by Dr. *Charles Munde* of the 1st of July, was the above protest, as far as it concerned the Bavarian treaty, revoked. The explanatory protocol appended to the treaty says with regard to Art. 4: that the said article shall have no other meaning than that such an American, or Bavarian, as is designated therein, shall not recover, through his return to his native country alone, his former citizenship, but that the latter must be again conferred upon him, that the adopted country cannot hinder him from the réacquisition of the same, but that, like any other foreign immigrant, he must apply for it anew. *Finally it is expressly stated that he shall be at liberty either to take that course or to retain the naturalization acquired abroad.*

It is clear that through the said explanation of Art. IV, not the article itself has become properly defined, but that exactly the contrary of its original sense has been laid down as a rule. If it

Ernennen liegt, ob er seine bisherige Staatsangehörigkeit beibehalten, oder eine neue an seinem Aufenthaltsort erwerben will, dann kann eben nicht schon sein Verzicht auf seine bisherige Staatsangehörigkeit angenommen werden, wenn er erklärt, nicht mehr in seinen Heimathstaat zurückkehren zu wollen, noch viel weniger aber kann der Verzicht auf die Rückkehr durch einen Aufenthalt von mehr als zwei Jahren im Gebiete des andern Staates angenommen werden. Durch den Wortlaut dieses Artikels sind die klarsten Rechtssätze auf den Kopf gestellt, zuerst ist die Präsumtion einer Erklärung statuirt aus einer andern Erklärung (die Absicht nicht zurückzukehren), welche mit der erstern in gar keinem Zusammenhang stehen kann, und dann ist selbst die Präsumtion dieser Erklärung wieder durch eine andere Präsumtion (zweijährigen Aufenthalt) ersetzt worden.

Wenn aber der Inhalt des Protokolls den Sinn des Vertrages bildet, warum enthält der Wortlaut des Vertrages das gerade Gegentheil seines Inhalts? Ein ähnliches Beispiel ist uns wahrlich nicht bekannt. Nur allzu sehr erinnert dies an unser früheres öffentliches Recht, in welchem gar oft der in einem Gesetz ausgesprochene Grundsatz durch die Vollzugsinstruction in das absolute Gegentheil verkehrt wurde.

is left with the immigrant whether he will retain his naturalization, or exchange it against that of his state of residence; his renunciation of the former cannot be assumed as existing on his declaration of an intention not to return to his home, and much less can a more than two years' residence in the territory of the other state give ground for an assumption of his renouncing his naturalization. Through the text of the article the most definite principles of right (law) are subverted: first the assumption of a declaration is stated upon the ground of another declaration (the intention not to return), which cannot be in any connection with the former, and then the assumption of that declaration is again substituted by another assumption (that of a two years' residence).

But if the contents of the protocol form the true meaning of the treaty, why should the text of the treaty say the direct contrary of its contents? We have, indeed, never met before with a similar instance. It reminds us more than agreeable of our former public law, when often the principle established by a law was subverted, by the following executive instructions, into the absolute contrary.

Mag übrigens auch nach diesem Protokoll für die in Bayern sich aufhaltenden Amerikaner wenig Gefahr bestehen, in ihren Rechten verkürzt zu werden, sicher besteht dieselbe für die in Norddeutschland sich aufhaltenden, sowie in ihrer Heimath, denn keine Garantie besteht, dass die Vereinigten Staaten einen Bürger, wie er in Art. IV. bezeichnet ist, noch als solchen anerkennen, jedenfalls können letztere nach diesem Artikel keinen Anspruch hierauf erheben.

4. *Harpers Weekly*, Aug. 1st 1868.

German Treaties. — Mr. *Bancroft* has certainly been a very active Minister. The difficult question between the United States and the German governments has always been that of the rights of naturalized citizens, and with commendable zeal Mr. *Bancroft* has devoted himself to its settlement. The point of difference is very plain, and the settlement to be satisfactory must be explicit. The German governments claim military service of all born subjects, and deny that emigration evades the obligation. In a treaty upon the subject, therefore, the important question is whether the governments concede that naturalization elsewhere vacates the claim. If this point is left to inference it must be assumed that the governments do not concede it. If it is not verbally expressed in the treaty, but depends upon the contemporaneous interpretation of those who make the treaty, the suspicion is against it, and those concerned can not safely trust themselves to the treaty.

The treaty with the North German Bund, of which we have formerly spoken, is, in the opinion of many, doubtful upon the important point. Count *Bismarck* and other weighty authorities said, indeed, that there was no doubt. But if there had been no question, they would not have spoken of doubts. If the treaty had provided that a Prussian, naturalized in the United States, could under no circumstances, and upon no pretense, be held to military service in

But suppose there is, after the said protocol, little danger for the Americans residing in Bavaria of being restricted in their rights, it is certain that such danger exists with regard to those who reside in North Germany, there as well as at home; for there is no guarantee that the U. S. will continue to acknowledge a citizen as designated by Art. IV, as its citizen; at least the latter can in no case, according to said article, claim such an acknowledgment.

Prussia, Count *Bismarck* would hardly have felt it necessary to say that there was no doubt of the meaning of the words. The instinctive criticism upon the explanation of the treaty is, if the treaty means so, why does it not say so? There is no question of the understanding placed upon the treaty by those who made and approved it, but it is so worded that it does not satisfy those who are most interested in it.

The treaty with Bavaria just concluded is open to the same objection. The vital question is, whether a Bavarian subject unaccused of crime, who emigrates from Bavaria and is naturalized in the United States, shall be held liable to military service in Bavaria upon his temporary return to that country? Does Bavaria say aye or no? In the first article she apparently does; for it provides that Bavarian subjects who have become naturalized citizens of the United States, and have lived there continuously for five years, shall be treated by Bavaria as citizens of the United States. But in the second article clouds descend and darkness covers the treaty, for it provides that any naturalized citizen of either country may be indicted and punished upon his return to the other if he has committed any act threatened with punishment before his emigration, providing the crime has not become obsolete according to the laws of his original country. This is not plain. Evasion of military duty by emigration is desertion, Desertion is an act threatened with punishment, and it is not a crime which has become obsolete by Bavarian law. Moreover, the third article provides especially for fugitive criminals, so that the second evidently alludes to a particular class of offenders. Is one of those offenders protected by the first article? That might be assumed, except for the second, which is clearly a qualification and limitation of the first. In any case the interested Bavarian emigrant can not be sure that he is safe.

Yet these treaties are signs of progress. It is surely something that Prussia and Bavaria agree that Germans naturalized in this country should be treated as citizens of the United States: although it is a foolish supplement that naturalization shall cease to be valid if the citizen lives for more than two years in the territory of the other state. Why shall not citizens of the United States live in Germany or Italy for more than two years without losing their rights of nationality? When a man has chosen his country, with the consent of all the governments concerned, why, upon the same principle,

may he not continue to be a citizen of that country at his pleasure? This is a question which we trust a future treaty will soon answer.

5. Execution of part of the Treaty in North-Germany.

* Bei Abschluss des Vertrages zwischen dem Norddeutschen Bunde und den Vereinigten Staaten von Nordamerika vom 22. Februar d. J., hat, wie ein unterm 6. d. M. vom Minister des Innern an die königlichen Regierungen erlassenes Circular bemerkt, die Absicht vorgewaltet, dass in Gemässheit des Art. 2 dieses Vertrages die durch unerlaubte Auswanderung eines Bundesangehörigen nach den Vereinigten Staaten von Nordamerika verübte strafbare Handlung bei einer Rückkehr des Betreffenden in seine frühere Heimath nach mindestens fünfjähriger Abwesenheit nicht zum Gegenstande einer strafrechtlichen Verfolgung gemacht, und dass die dieserhalb event. bereits rechtskräftig erkannte Strafe nicht zur Vollstreckung gebracht werden soll, wenn der Rückkehrende in Amerika das Heimathsrecht in Gemässheit des Artikels 1 des gedachten Vertrages erworben hat. Der Circular-Erlass des Ministers weist demzufolge die Regierungen an, in den vorbezeichneten Fällen von dem Antrage auf Einleitung der Untersuchung und Bestrafung, sowie überhaupt von jeder Verfolgung

* The above slip was kindly sent to me by our consul at Berlin. I find that a similar proclamation was made soon after by the Bavarian government. — Here is the meaning in English: — In concluding the treaty between the North German Confederation and the U. S. of North-America of 22 Febr. a. c., as has been stated by the minister of the Interior in his circular addressed to the different departments of government of 6 inst (July), the intention has prevailed that, in accordance with Art. 2 of said treaty, the punishable act of illegal emigration of a subject of the Confederation to the U. S. of North-America, on the return of said person to his former home, after an absence of no less than five years, shall not be made the subject of trial and punishment, and that a sentence pronounced to that effect shall not be carried out, if the person returned has acquired, according to Art. 1 of said treaty, his naturalization in America. The circular-proclamation of the minister therefore orders the governmental departments in question, to abstain, in cases like those designated above, from a demand of instruction of trial and punishment, and in general from any kind of prosecution, whenever

Abstand zu nehmen, sobald der Betreffende den Nachweis zu führen vermag, dass er naturalisirter Angehöriger der Vereinigten Staaten von Nord-Amerika in Gemässheit des Art. 1 des Vertrages geworden ist. Die Justiz-Behörden sind gleichzeitig von dem Justiz-Ministerium mit Anweisung versehen worden, überall da, wo rechtskräftige Verurtheilungen dieser Art gegen die bezeichneten Personen vorliegen, von Amtswegen über den Erlass der erkannten Strafen und Kosten im Gnadenwege zu berichten.

XII.

BETTER NEWS ON MR BANKS' BILL.

1. *Frankfurter Zeitung*, 29. Juli 1868.

Washington, 27. Juli. Kabeltelegramm aus Reuters Office (S.W.B.). Der Congress hat die Bill angenommen, welche eine Ausgabe von Bonds anordnet, die in 30 bis 40 Jahren rückzahlbar, mit Metall einzulösen, frei von Abgaben und mit 4 und $4\frac{1}{2}$ Procent verzinslich sind. Der ganze Betrag der Emission dieser neuen Bonds kommt dem Betrage der fünfzwanziger Bonds (1882r) gleich und soll zur Einlösung der letzteren verwendet werden. — Ferner haben beide Häuser des Congresses die (Banksche) Bill über die Rechte amerikanischer naturalisirter Bürger im Auslande angenommen, wodurch angeordnet wird, 1, dass alle amtliche oder gerichtliche Entscheidungen, welche den Verzicht auf das Heimathsrecht verwehren, als null und nichtig zu betrachten seien; 2) dass alle naturalisirten Amerikaner im Auslande zu gleichem Schutze berechtigt seien, welcher amerikanischen Bürgern von Geburt derzeit im Auslande zusteht. Der 3. § über Repressalien (Haftnahme) wurde gestrichen.

the person in question can produce proof that he has become, according to Art. 1 of the treaty, a naturalized citizen of the U. S. of N. A. The courts of justice have, at the same time, received instructions from the minister of justice to report *ex officio* and *by way of grace*, in any case where legal sentences of the kind exist against such persons, on the abolition of punishments dictated and the suppression of costs.

2. *Galignani's Messenger*, July 29th. (Telegraphic Despatches.)

Washington, 27 July. Congress has adopted a bill declaring that the necessity of maintaining public peace demands the prompt and definite rejection of the claims of foreign governments on the allegiance of naturalized American citizens. The measure enacts, in consequence, that any declaration, order, or decision of United States' functionaries which may deny or restrain the right of expatriation is null and void, as being incompatible with the fundamental principle of the Government. Every naturalized American citizens shall receive from the Federal Administration, while he is in a foreign country the same protection as if he were born in America. (The last clause of the bill provided that, if a foreign government detains a naturalized citizen of the U. S. on the ground that the naturalization does not impair the allegiance due to his original sovereign, the President is authorized to arrest a subject of that Government who may be residing in the U. S.* — This last clause was not adopted.)

3. *Letter on the Subject*. — Aug 3^d 1868.

D^r MUNDE. — Dear Sir. — Your note of 23^d ult. was received during my absence at Vienna where I went to see the great representation of all Vaterland. I see by the last news that Banks' Bill has actually passed minus the reprisal clause. I copy the section referring to foreign born U. S. citizens which you will remark is quite in accordance with the constitutional theory, but rather in discord with the North German treaty regulations, as published. How this conflict is to be reconciled can only be seen by a trial, which, however, may not occur. In the case of Bavarians no conflict can occur, the protocol reconciles the U. S. Constitution and Treaty for all practical purposes. The section reads „That all naturalized citizens of the United States, while in Foreign States, shall be entitled to, and shall receive from this Government the same protection of person and property, that is accorded to native born citizens in like situation and circumstances.“

The Newyork Times of 17 July (a well informed paper on all public affairs) states that the Bavarian treaty contains amendments made to the North German treaty by the Senate and is therefore in its present condition perfect. From this I think it may be inferred that,

* See Chapter VII p. 63.

tho' no protocol is given with the North German treaty, it nevertheless has received the modification required to Art. 4, without which the Senate, *I know*, would not confirm it*. I think therefore you may assume that all the German treaties will be similar with the Bavarian, in practise and application, tho' not so in seeming. I will send &c. Yours &c.

4. *Neue Würzburger Zeitung*, 15. Aug. 1868. — (Copied from the Frankfurter Journal.) — (Translation.)

North America. The Bill for the Protection of American citizens abroad, which passed the Senate on the 25th of July with 39 votes against five, and which was sanctioned by the House of Representatives on the same day, is very harmless, and quite different from that which was at first proposed. It is worded as follows: (Instead of the translation we give a copy of the original which we received this moment, August 31st.)

Act relative to the rights of American citizens abroad, passed July 26th 1868, as amended.

Whereas the right of expatriation is a natural and inherent right of all people and indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness; and

Whereas, in the recognition of this principle, this Government has freely received emigrants from all nations and vested them with the rights of citizens; and

Whereas it is claimed that such American citizens with their descendants, are subjects of foreign States, owing allegiance to the Governments thereof; and

Whereas it is necessary to the maintenance of the public peace that the claim of foreign allegiance shall be promptly and finally disavowed: therefore

Sect. I. *Be it enacted &c. &c.* That any declaration, instruction, opinion, order or decision of any officer of this Government, which denies, restricts, impairs or questions the right of expatriation, is

* In this respect, I am afraid, my Honorable friend, is not correctly informed. To judge from Senator Sumner's letter, it seems that the Senate was not so very favorably disposed towards its naturalized fellow-citizens when the N. G. treaty was ratified. M.

hereby declared to be inconsistent with the fundamental principles of this Government.

Sect. II. *And be it further enacted*, That all naturalized citizens of the United States, while in foreign States, shall be entitled to and shall receive from this Government the same protection of person and property that is accorded to native born citizens in like situation and circumstances.

Sect. III. *And be it further enacted*, That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of a foreign Government, it shall be the duty of the President forthwith to demand of that Government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to the acts of war*, as he may think necessary and proper to obtain or effect such release, and all the facts and proceedings relative thereto shall, as soon as practicable be communicated by the President to Congress.

5. *New-York Weekly Tribune*, August 5th 1868.

The main points of the act for the protection of American citizens abroad, which was passed just before the adjournment of the Congress of the United States, were telegraphed to London and published in the morning journals. The bill is sharply and unfavorably criticised by the English press, though its passage does not appear to excite either surprise or anger. Journals of all shades of opinion affect to consider the bill a partisan measure required by the exigencies of the

* The President being prevented from resorting to acts of war &c. and the reprisal clause in the Bill, as being first proposed, being stricken out, makes the Frankf. Journal style the Bill „harmless and quite different &c.“. We think it is essentially the same, entirely to the purpose, and perfectly satisfactory, establishing and supporting the principle for which we are struggling, *that of equality between naturalized and native citizens*. (Acts and declaration of war is a privilege belonging to Congress, not to the President, and the above restriction has no other meaning than that Congress reserves for itself the right of declaring war, in case it should become necessary. M.)

November elections. But they think this action of Congress will not tend to promote the success of American negotiations with foreign powers to secure by treaty the establishment of the principles of nationalities on which the bill is based. *The London Times* says: The passage of the American Citizen Act will surprise no one. It was to be expected that the majority of the United States Congress would make, through such a measure as this, a direct bid for the Irish * vote in the coming election. There is nothing in the general principle of the bill for England to deny or oppose. Irishmen who have taken out their naturalization papers in the United States may properly use American passports, while traveling in Europe, or serve in the armies of the United States even against Great Britain. So long as their new citizenship is a *bona fide* qualification, made in accordance with American naturalization laws, nothing can be said. The real purpose of the Fenian is, protected by the new citizenship thus conferred him, to make war upon the Queen of England in her own realm. But here they must be treated as subjects guilty of treason; aliens and natives are on the same footing in such a case. The denial of a jury *medietate lingue* in the trial of the Jackmel packet prisoners was right, because the trial of such a case as that depended on internal, not international laws. The evidence obtained in the United States against these prisoners to prove that they were members of the Fenian Brotherhood was merely collateral. The real crime charged against these men was committed on British territory. *The Times* even accepts the rule that a naturalized citizen of the United States may come to England with impunity *after* plotting against the Queen in *America*, if he comes peaceably. — *The Morning Post* says the adoption of this bill by Congress anticipates and consequently delays the settlement of the question of the rights of naturalized citizens between the United States and European powers. The latter may justly resent such action, even while making allowance for the exigencies of the approaching Presidential election. —

* If this be so, we German-Americans have very little cause of being proud of the final acknowledgment of our rights by the Senate. Be this as it may, selfpreservation, at all events, has changed the mind of the Senate on the subject. For with the votes of the foreign born citizens against them, the republican party would have had little chance of success in the coming election. M.

6. *From the London Times, August 27th 1868.* Telegr. Desp.

Germany and America. Berlin, Aug. 26th 1868. — The representative of the North German Confederation at Washington has been instructed to open negotiations with the United States Government, with a view of harmonizing the regulations concerning emigrants by means of international legislation. A favourable result is expected *.

XIII.

THE BADEN TREATY.

(From the *Frankfurter Journal*, 20 July 1868. I. Beilage.)

* **Art. I.** — Angehörige des Grossherzogthums Baden, welche fünf Jahre ununterbrochen in den Vereinigten Staaten von Amerika zugebracht haben und vor, während oder nach dieser Zeit naturalisirte Staatsangehörige der Vereinigten Staaten geworden sind, sollen von Seiten Badens als amerikanische Angehörige erachtet und als solche behandelt werden. Ebenso sollen Angehörige der Vereinigten Staaten von Amerika, welche fünf Jahre ununterbrochen im Grossherzogthum Baden zugebracht haben, und vor, während und nach dieser Zeit naturalisirte Angehörige des Grossherzogthums Badens geworden sind von den Vereinigten Staaten als Angehörige Badens erachtet und als solche behandelt werden. — Die blosser Erklärung der Absicht, Staats-

* **Translation.** — **Art. I.** Citizens of the Granddukedom of Baden, who have resided five years uninterruptedly in the U. S. of A. and who, before, during, or after that period, have become naturalized citizens of the U. S., shall be held by the Baden government to be American citizens and shall be treated as such. In the same manner, citizens of the U. S. of A., who have resided uninterruptedly five years in the Granddukedom of Baden, and who, before, during, or after that period, have become naturalized in the Grandduchy of Baden, shall be held by the U. S. to be Baden citizens and treated as such. — The mere declaration of an intention to become a citizen

* The clouds commence clearing off? M.

angehöriger des einen oder anderen Theiles werden zu wollen, soll in Beziehung auf keinen der beiden Theile die Wirkung der Naturalisation haben.

Art. II. — Ein naturalisirter Angehöriger des einen Theils soll bei etwaiger Rückkehr in das Gebiet des anderen Theiles wegen einer nach den Gesetzen des letzteren mit Strafe bedrohten Handlung, welche er vor seiner Auswanderung verübt, zur Untersuchung und Strafe gezogen werden können, sofern nicht nach den Gesetzen seines ursprünglichen Vaterlandes Verjährung oder sonstige Strafflosigkeit eingetreten ist. Namentlich soll ein nach Art. I. als amerikanischer Staatsbürger zu erachtender früherer Badener nach den badischen Gesetzen wegen Nichterfüllung der Wehrpflicht zur Untersuchung und Strafe gezogen werden können, 1) wenn er ausgewandert ist, nachdem er bei der Aushebung der Wehrpflichtigen bereits als Rekrut zum Dienste im stehenden Heere herangezogen worden war; 2) wenn er ausgewandert ist, während er im Dienste bei der Fahne stand oder nur auf bestimmte Zeit beurlaubt war; 3) wenn er als auf unbestimmte Zeit Beurlaubter oder als Reservist oder als Landwehrmann ausgewandert ist, nachdem er bereits eine Einberufungsordre erhalten, oder der Krieg ausgebrochen war. Dagegen soll ein in den Ver. St.

of the one or the other country shall not have for either party the effect of naturalization.

Art. II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of the latter, and committed before his emigration, saving the limitation established by the laws of his original country, or the exemption from punishment in some other way. In particular, a former Baden subject who, according to Art. I, is held to be an American citizen, shall be liable to trial and punishment by the laws of Baden on account of having evaded his military duty: 1st, if he has emigrated after having been drafted at the time of conscription and thus having become a recruit in the standing army; 2^d, if he has emigrated whilst in the service under the Baden banner, or during a leave of absence for a definite period; 3^d, if he has emigrated during a leave of absence for an indefinite period, or as a member of the reserve, or as a landwehrmann, after having received the order of joining his regiment, or after the breaking out of a war. On the other hand, a former Baden

naturalisirter früherer Badener, welcher sich bei oder nach seiner Auswanderung durch andere als die in Ziff. 1 bis 3 bezeichneten Handlungen oder Unterlassungen gegen die gesetzlichen Bestimmungen über die Wehrpflicht vergangen hat, bei seiner Rückkehr in sein ursprüngliches Vaterland weder nachträglich zum Kriegsdienste, noch wegen Nichterfüllung seiner Wehrpflicht zur Untersuchung und Strafe gezogen werden. Auch soll der Beschlag, welcher in andern als in den in Ziffer 1 bis 3 bezeichneten Fällen wegen Nichterfüllung der Wehrpflicht auf das Vermögen eines Ausgewanderten gelegt wurde, wieder aufgehoben werden, sobald derselbe die nach Art. I. vollzogene Naturalisation in den Ver. St. von A. nachweist.

Art. III. Der Vertrag zwischen dem Grossh. Baden einerseits und den Ver. St. von A. andererseits wegen der in gewissen Fällen zu gewährenden Auslieferung der vor der Justiz flüchtigen Verbrecher, welcher am 30. Januar 1857 abgeschlossen worden ist, bleibt unverändert fortbestehen.

Art. IV. Derjenige, welcher aus dem einen Staate ausgewandert und nach Art. I. als Angehöriger des andern Staates zu erachten ist, soll bei etwaiger Rückkehr in sein früheres Vaterland nicht ange-

subject, naturalized in the U. S., who, by or after his emigration, has committed other offences, different from those designated under the ciphers 1 to 3, against, or neglects of, the legal regulations of military duties, shall, on his return to his original country, neither be compelled to enter the military service of the latter for the time of his absence, or shall he be subject to trial and punishment for neglecting to fulfil said duty. And further, the seizure of the property of an emigrant which, in any other cases than those designated under the ciphers 1 to 3, may have taken place on account of an evasion of military duty, shall be annulled on the emigrant's proving his naturalization in the U. S. of A.

Art. III. The convention for the mutual delivery of criminals, fugitive from justice, in certain cases, concluded between the Grand-dukedom of Baden on the one part and the U. S. of A. on the other part, on the 30th of January 1857, remains in force unchanged.

Art. IV. A person who has emigrated from one state, and is, according to Art. I, held to be a citizen of the other State, shall not, on his return to his former country, be liable to a compulsory

halten werden können, in die alte Staatsangehörigkeit zurückzutreten. Wenn er dieselbe mit seinem Willen jedoch wieder erwirbt, und auf sein durch Naturalisation erworbenes Staatsbürgerrecht wieder verzichtet, so soll ein solcher Verzicht zulässig und soll für die Anerkennung der Wiedererwerbung des Staatsbürgerrechtes im ursprünglichen Heimathsstaate eine gewisse Dauer des Aufenthalts in diesem Staate nicht erforderlich sein.

Art. V. Der gegenwärtige Vertrag tritt sofort nach Austausch der Ratificationen in Kraft und hat für zehn Jahre Gültigkeit. Wenn kein Theil dem andern sechs Monate vor dem Ablauf dieser zehn Jahre Mittheilung von seiner Absicht macht, denselben alsdann aufzuheben, so soll er ferner in Kraft bleiben bis zum Ablauf von zwölf Monaten, nachdem einer der contrahirenden Theile dem andern von einer solchen Absicht Kenntniss gegeben.

Art. VI. Der gegenwärtige Vertrag soll von Seiner Königlichen Hoheit dem Grossherzog von Baden und dem Präsidenten unter und mit Genehmigung des Senates der Ver. St. ratificirt und die Ratificationen zu Karlsruhe so bald als möglich ausgewechselt werden.

Zu Urkund dessen &c.

réassumption of his former allegiance. If, however, he réacquires the same of his own and free will and renounces the rights acquired by his naturalization, such renunciation shall be permitted, and a certain fixed period of residence in that State shall not be required for the acknowledgment of the réacquisition of citizenship in the original country of the emigrant.

Art. V. The present treaty shall go into effect immediately after the exchange of ratifications and shall continue in force for ten years. If neither party shall have given to the other six months previous notice of its intention then to terminate the same, it shall further remain in force until the end of twelve months after either of the contracting parties shall have given notice to the other of such intention.

Art. VI. The present convention shall be ratified by His Royal Highness the Grandduke of Baden, and by the President by and with the consent of the Senate of the U. S., and the ratifications shall be exchanged at Carlsruhe as soon as possible.

In faith whereof &c.

XII.

THE CHINESE TREATY.*

TEXT OF THE TREATY AS RATIFIED BY THE SENATE- MOVEMENTS OF THE EMBASSY.

Washington, July 27, 1868.

Minister Burlingame and his associates, having completed their labors, are now preparing to leave for the North. Scarcely two months have elapsed, since the arrival of the Embassy at the capital of the nation, and in that brief space has been accomplished one of the greatest events of modern times — the arrangement of a treaty the terms of which bring within the community of nations the oldest people on the earth. It is impossible to realize at this early moment the magnitude of the interests and benefits involved; but still more remarkable is the consummation of so great a transaction in so short a time. The readiness with which the treaty was accepted by our government has made a deep impression upon the minds of the Celestial ambassadors, and doubtless will have much to do with the favorable recognition of American interests by the Chinese government. I have already forwarded the treaty as it came from the hands of the negotiators on the part of the Chinese and the United States governments. The following is the text of the treaty as modified and subsequently ratified by the Senate in executive session on the night of July 16, 1868. —

* From the *Newyork Herald*, July 28th, 1868. — I have waited for the Würtemberg and the Hesse-Darmstadt treaties, till I can wait no more, no one being able to procure a copy, although the said treaties have been concluded several weeks ago, resembling, I understand, much the Bavarian and the Baden treaties. To show that it was high time for the German governments to acknowledge our liberal principles in regard to change of country and allegiance, we give the Chinese Treaty, which has no fourth article to take back, like the North German treaty, with one hand what it gives with the other. — Those powers which come now, will, at all events, be behind China!

ADDITIONAL ARTICLES TO THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE TA-TSING EMPIRE, OF THE 18TH OF JUNE, 1858.

Whereas since the conclusion of the treaty between the United States of America and the Ta-Tsing empire (China) of the 18th of June, 1858, circumstances have arisen showing the necessity of additional articles thereto, the President of the United States and the august sovereign of the Ta-Tsing empire having named for their plenipotentiaries, to wit, the President of the United States of America, Wm. H. Seward, Secretary of State, and his Majesty the Emperor of China, Anson Burlingame, accredited as his Envoy Extraordinary and Minister Plenipotentiary; and Chih-Kang and Sun-Chia-Ku, of the second Chinese rank, associated High Envoys and Ministers of his said Majesty, and the said plenipotentiaries, after having exchanged their full powers found to be in due and proper form, have agreed upon the following articles: —

Article 1. His Majesty the Emperor of China, being of the opinion that in making concessions to the citizens or subjects of foreign Powers of the privilege of residing on certain tracts of land, or resorting to certain waters of that empire for purposes of trade, he has by no means relinquished his right of eminent domain or dominion over the said land and waters, hereby agrees that no such concession or grant shall be construed to give to any Power or party which may be at war with or hostile to the United States the right to attack the citizens of the United States or their property within the said lands or waters; and the United States, for themselves, hereby agree to abstain from offensively attacking the citizens or subjects of any Power or party or their property with which they may be at war on any such tract of land or waters of the said empire; but nothing in this article shall be construed to prevent the United States from resisting an attack by any hostile Power or party upon their citizens or their property. It is further agreed that if any right or interest in any tract of land in China has been or shall hereafter be granted by the government of China to the United States or their citizens for purposes of trade or commerce, that grant shall in no event be construed to divest the Chinese authorities of their right of jurisdiction over persons and property within said tract of land, except so far as that right may have been expressly relinquished by treaty.

Art. 2. The United States of America and his Majesty the Emperor of China, believing that the safety and prosperity of commerce will thereby best be promoted, agree that any privilege or immunity in respect to trade or navigation within the Chinese dominions which may not have been stipulated for by treaty, shall be subject to the discretion of the Chinese government and may be regulated by it accordingly, but not in a manner or spirit incompatible with the treaty stipulations of the parties.

Art. 3. The Emperor of China shall have the right to appoint consuls at ports of the United States, who shall enjoy the same privileges and immunities as those which are enjoyed by public law and treaty in the United States by the consuls of Great Britain and Russia, or either of them.

Art. 4. The twenty-ninth article of the treaty of the 18th of June, 1858, having stipulated for the exemption of Christian citizens of the United States and Chinese converts from persecution in China on account of their faith, it is further agreed that citizens of the United States in China of every religious persuasion and Chinese subjects in the United States shall enjoy entire liberty of conscience and shall be exempt from all disability of persecution on account of their religious faith or worship in either country. Cemeteries for sepulture of the dead of whatever nativity or nationality shall be held in respect and free from disturbance or profanation.

Art. 5. *The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of their citizens and subjects respectively from the one country to the other for purposes of curiosity, trade or as permanent residents.* The high contracting parties, therefore, join in reprobating any other than an entirely voluntary emigration for these purposes. They consequently agree to pass laws making it a penal offence for a citizen of the United States or a Chinese subject to take Chinese subjects either to the United States or to any other foreign country or for a Chinese subject or a citizen of the United States to take citizens of the United States to China or to any other foreign country without their free and voluntary consent respectively.

Art. 6. Citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation, and, reciprocally, Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation; but nothing herein contained shall be held to confer naturalization upon the citizens of the United States in China, nor upon the subjects of China in the United States.

Art. 7. Citizens of the United States shall enjoy all the privileges of the public educational institutions under the control of the government of China, and reciprocally Chinese subjects shall enjoy all the privileges of the public educational institutions under the control of the government of the United States which are enjoyed in the respective countries by the citizens or subjects of the most favored nations. The citizens of the United States may freely establish and maintain schools within the empire of China at those places where foreigners are by treaty permitted to reside, and reciprocally Chinese subjects may enjoy the same privileges and immunities in the United States.

Art. 8. The United States, always disclaiming and discouraging all practices of unnecessary dictation and intervention by one nation in the affairs or domestic administration of another, do hereby freely disclaim any intention

or right to intervene in the domestic administration of China in regard to the construction of railroads, telegraphs or other material internal improvements. On the other hand, his Majesty the Emperor of China reserves to himself the right to decide the time and manner and circumstances of introducing such improvements within his dominions. With this mutual understanding it is agreed by the contracting parties that if at any time hereafter his Imperial Majesty shall determine to construct or cause to be constructed works of the character mentioned within the empire and shall make application to the United States or any other Western Power for facilities to carry out that policy, the United States will, in that case, designate and authorize suitable engineers to be employed by the Chinese government, and will recommend to other nations an equal compliance with such application, the Chinese government in that case protecting such engineers in their persons and property and paying them a reasonable compensation for their service.

In faith whereof the respective Plenipotentiaries have signed this treaty and hereto affixed the seals of their arms.

Done at Washington the fourth day of July, in the year of our Lord one thousand eight hundred and sixty-eight.

WILLIAM H. SEWARD.

ANSON BURLINGAME.

CHIH KANG.

SUN CHI KU.

XV.

DECLARATION OF INDEPENDENCE.

In Congress, July 4th 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA.

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold *these truths* to be self-evident: — *That all men are created equal; that they are endowed by their Creator with unalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted*

among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive to these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, *it is their right, it is their duty, to throw off such government, and to provide new guards for their future security.* Such has been the patient sufferance of these colonies; and such is now the necessity which contrains them to alter their former system of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them. He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, — a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise,

the state remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose, obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of land.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation, —

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states.

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefit of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule in these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, *by declaring us out of his protection*, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these expressions, we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend the unwarrantable jurisdiction over us. *We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity;* and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and our correspondence. They, too, have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent

states may of right do. And, for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK.

New Hampshire.

Josiah Bartlett,
William Whipple,
Matthew Thornton.

Massachusetts Bay.

Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.

Rhode Island, &c.

Stephan Hopkins,
William Ellery.

Connecticut.

Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.

New York.

William Floyd,
Philip Livingston,
Francis Lewis,
Lewis Morris.

New Jersey.

Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark.

Pennsylvania.

Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton,
George Clymer,
James Smith,
George Taylor,
James Wilson,
George Ross.

Delaware.

Caesar Rodney,
George Read,
Thomas M'Kean.

Maryland.

Samuel Chase,
William Paca,
Thomas Stone,
C. Carroll, of Carrollton.

Virginia.

George Wythe,
Richard Henry Lee,
Thomas Jefferson,
Benjamin Harrison,
Thomas Nelson, jr.,
Francis Lightfoot Lee,
Carter Braxton.

North Carolina.

William Hooper,
Joseph Hewes,
John Penn.

South Carolina.

Edward Rutledge,
Thomas Heyward, jr.,
Thomas Lynch, jr.,
Arthur Middleton.

Georgia.

Burton Gwinnett,
Lymann Hall,
George Walton.

XVI.

THE CONSTITUTION
OF THE
UNITED STATES OF AMERICA.

Framed by a convention of delegates, of which Washington was the president, which met at Philadelphia, from the States of New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia; and adopted 17th September, 1787.

(PREAMBLE.)

We, the people of the United States, in order to form a perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

A R T I C L E I.

SECTION I.

1. All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of Senate and House of Representatives.

SECTION II.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a representative who shall not have attained to the age of 25 years and been seven years a citizen of the U. S. and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the U. S. and within every subsequent term of 10 years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every 30000, but each state shall have at least one representative and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECTION III.

1. The Senate of the United States shall be composed of two Senators from each state, chosen by the Legislature thereof, for six years and each Senator shall have one vote.

2. Immediately after they shall be assembled, in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of 30 years and been 9 years a citizen of the U.S., and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be president of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers and also a president pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in case of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

SECTION IV.

1. The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION V.

1. Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house on any question, shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither House during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION VI.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to, and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time, and no

person holding any office under the United States shall be a member of either House during his continuance in office.

SECTION VII.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections to the House in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent together with the objections to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of persons voting for and against the bill, shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted), after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION VIII.

The Congress shall have power —

1. To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States, but all duties, imposts and excises shall be uniform throughout the United States.
2. To borrow money on the credit of the United States.

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.
4. *To establish an uniform rule of naturalization*, and uniform laws on the subject of bankruptcies throughout the United States.
5. To coin money, regulate the value thereof and of foreign coin, and fix the standards of weights and measures.
6. To provide for the punishment of counterfeiting the securities and current coin of the United States.
7. To establish post-offices and post-roads.
8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.
9. To constitute tribunals inferior to the Supreme Court: to define and punish piracies and felonies, committed on the high seas, and offences against the law of nations.
10. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.
11. To raise and support armies: but no appropriation of money to that use shall be for a longer term than two years.
12. To provide and maintain a navy.
13. To make rules for the Government and regulation of the land and naval forces.
14. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.
15. To provide for organizing, arming and disciplining the militia and for governing such parts of them as may be employed in the service of the United States, reserving to the States respectively the appointment of officers, and the authority of training the militia, according to the discipline prescribed by Congress.
16. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding 10 miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States and to exercise like authority over all places purchased by the consent of the Legislature of the State, in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings: — and
17. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers

vested by this Constitution in the Government of the United States, or in any department or officer thereof.

SECTION IX.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the right of „*habeas corpus*“ shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or ex post facto law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce, or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State be obliged to enter, clear or pay duties in another.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince or foreign state.

SECTION X.

1. No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State, on imports or

exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of the Congress, lay any duty of tonnage, keep troops or ships of war, in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

A R T I C L E I I.

SECTION I.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof, may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding any office of trust or profit under the United States shall be appointed an elector.

3. The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the

States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. *No person except a natural born citizen*, or a citizen of the United States at the time of the adoption of this Constitution, *shall be eligible to the office of President*; neither shall any person be eligible to that office who shall not have attained to the age of 35 years and been 14 years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President declaring what officer shall then act as President and such officer shall act accordingly until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected and he shall not receive within that period any other emolument from the United States or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

9. I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States.

SECTION II.

1. The President shall be commander-in-chief of the army and navy of the United States and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves

and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECTION III.

1. He shall from time to time give to the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient. He may on extraordinary occasions, convene both Houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time, as he shall think proper. He shall receive ambassadors, and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECTION IV.

The President, Vice-President and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION I.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behaviour; and shall, at stated times, receive for their services,

a compensation, which shall not be diminished during their continuance in office.

SECTION II.

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a State and citizens of another State, between citizens of different States, between citizens of the same State, claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

2. In all cases affecting ambassadors, other public ministers and consuls and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state, where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION III.

1. Treason against the United States, shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION I.

1. Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other state. And the

Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved and the effect thereof.

SECTION II.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labour in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

SECTION III.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

ARTICLE IV.

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

A R T I C L E V.

1. *The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either*

case shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment, which may be made prior to the year 1808, shall in any manner effect the 1st and 4th clauses in the 9th section of the I. Article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

2. This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made under the authority of the United States shall be the Supreme Law of the Land, and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution, but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in convention by the unanimous consent of the States present, the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth.

In witness whereof we have hereunto subscribed our names.

GEORGE WASHINGTON,
PRESIDENT, AND DEPUTY FROM VIRGINIA.

The Constitution was ratified by the prescribed number of states in 1788, and went into operation in 1789. Vermont, the first of the new states which joined the Union, gave her assent early in 1791. The number of delegates chosen to the convention was sixty five; ten did not attend; sixteen declined signing the constitution, or left the convention before it was ready to be signed. Thirty nine signed, as follows:

<i>New Hampshire.</i>	<i>Pennsylvania.</i>	<i>Maryland.</i>
John Langdon, Nicholas Gilman.	Benjamin Franklin, Thomas Mifflin,	James M'Henry, Daniel, of St. Thomas
<i>Massachusetts.</i>	Robert Morris, George Clymer,	Jenifer, Daniel Carroll.
Nathaniel Gorman, Rufus King.	Thomas Fitzsimmons, Jared Ingersoll,	<i>Virginia.</i>
<i>Connecticut.</i>	James Wilson, Gouverneur Morris.	John Blair, James Madison, jr.
Wm. Samuel Johnson, Roger Sherman.	<i>Delaware.</i>	<i>North Carolina.</i>
<i>New York.</i>	George Read, Gunning Bedford, jr.,	John Rudledge, Charles Cotesworth.
Alexander Hamilton.	John Dickinson, Richard Bassett,	Pinckney; Pierce Butler.
<i>New Jersey.</i>	Jacob Broom.	<i>Georgia.</i>
William Livingston, David Bearley, William Paterson, Jonathan Dayton.		William Few, Abraham Baldwin.
		Attest, WILLIAM JACKSON, Secretary.

AMENDMENTS TO THE CONSTITUTION.

ART. I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ART. II. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ART. III. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ART. IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ART. V. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ART. VI. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

ART. VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise reexamined, in any court of the United States, than according to the rules of the common law.

ART. VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ART. IX. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ART. X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ART. XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or

prosecuted against one of the United States, by citizens of another state, or by citizens or subjects of any foreign state.

ART. XII. § 1. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for a vice-president, and they shall make distinct lists of all persons voted for as president and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the House of Representatives shall choose immediately, by ballot, the president. But, in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the vice-president: a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But *no person constitutionally ineligible to the office of president shall be eligible to that of vice-president* of the United States.

ART. XIII. § 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been

duly convicted, shall exist within the United States or any place subject to their jurisdiction.

§ 2. Congress shall have power to enforce this article by appropriate legislation.

ART. XIV. §. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make, or enforce, any law, which shall abridge the privileges, or immunities, of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

§ 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State excluding the Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty one years of age in such state.

§ 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

§ 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for suppressing insurrection and rebellion, shall not be questioned. But neither the United States, nor any State, shall

resume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 5. The Congress shall have power to enforce by appropriate legislation, the provisions of this article.

The first ten amendments were adopted in the first session of Congress; the 11th and 12th later; and the 13th and 14th during and after the last civil war. The ratifications of the fourteenth amendment were published by the government on the 22^d of July 1868.

XVII.

LAWS OF NATURALIZATION.

SECT. I. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof, on application to any common law court of record, in any one of the states, wherein he shall have resided for the term of one year at least and making proof to the satisfaction of such court, that he is a person of good character and taking the oath or affirmation prescribed by law, to support the constitution of the United States, which oath or affirmation such court shall administer; and the clerk of such court shall record such application, and the proceedings thereon; and thereupon such person shall be considered as a citizen of the United States. And the children of such persons so naturalized, dwelling within the United States, being under the age of 21 years at the time of naturalization, shall also be considered as citizens of the United States. And the children of citizens of the United States that may be born beyond sea or out of the limits of the United States, shall be held as natural born citizens: Provided that the right of citizenship shall not descend to persons whose fathers have never been resident in the United States. Provided also, that no person hereto-

fore prescribed by any state, shall be admitted a citizen as aforesaid, except by an act of legislature of the state in which such person was proscribed.

Approved Mch. 26th 1790.

The following is the substance of the laws taken out of Wheaton's Elements of International Law.

NATURALIZATION.

By the act of Mch. 26, 1790, it is provided that any free white alien, who had resided two years within the U. S. may become a citizen on application to any court of record of the State where he had resided one year, making proof to the satisfaction of the Court that he is a person of good character, and taking the oath of affirmation prescribed by law, to support the Constitution of the U. S.; and the minor children of such persons so naturalized, and the children of citizens that may be born out of the U. S., were to be considered citizens. This act requires no abjuration of former allegiance.

The act of January 29th 1795 requires a preliminary declaration of intention to become a citizen and to renounce all foreign allegiance, particularly to the Prince or State of whom the applicant was a subject or citizen, three years before admission, and a residence at the time of admission, of five years within the U. S. and of one year within the State. This act also requires that the alien should renounce any title of nobility, and that the Court admitting him should be satisfied of his good moral character, that he was attached to the principles of the Constitution and well disposed to the good order (happiness) of the same. The aliens, then residing in the U. S. might become citizens on a residence of two years, one of which was in the State where applying, according to the law previously in force, and on complying with the other requirements of the new act. There are the same provisions as before as to the minor children of naturalized citizens and the children of citizens born abroad.

By Act of June 18th 1798 no alien could become a citizen, unless he had declared his intention five years before his admission, and proved a residence of 14 years in the U. S. and five years in the State where he applied.

By Act of April 14th 1802, and which is now in force and applicable in ordinary cases, a free white person may become a citizen by declaring three years before his admission his intention; and on

the Court being satisfied that he has resided at the time of his admission, five years in the U. S. and one year in the State, where the Court sits, and complied with the other conditions of abjuration &c. which are the same as prescribed in act of 1795. Minor children, whose parents had been naturalized citizens, and children of citizens that had been born out of the U. S., were not to be deemed aliens.

There are 11 acts about naturalization, which it would be too long to copy here. The above is the substance of the whole, and quite sufficient for our purpose.

XVIII.

C O N C L U S I O N.

We hold these truths to be self-evident: that all men are created equal; that they are endowed, by their Creator, with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness.

Declaration of Independence.

Once naturalized, the adopted citizens of America cease to be Bavarians, Prussians, French or English. They are Americans. Wherever they may reside, whatever they may do, on land or on board ship, at home or abroad, they are everywhere Americans. That has been promised by the United States; and *that the latter are obliged, upon their word and honor, to see acknowledged.*

Bancroft (in 1849).

From the moment an alien becomes naturalized, the allegiance to his native country is dissolved forever. He is politically born anew. An inseparable boundary separates him from the land of his birth. He is no longer responsible to the latter for anything he may say or do, not say or not do, after he has taken his new character as a citizen, *just the same as if he were born in the United States.* If he returns to his native country, he returns as an American citizen, and in no other quality.

*General Cass (in 1849).**

Neither through the sentence of a court of justice, or through a decision of the administration, or through a long absence abroad, or

* See p. 59.

through the neglect of any kind of duty, can the United States citizenship be forfeited.

*Dr. von Gosen (1868).**

The United States of America, and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance; and also the mutual advantage of the free migration and emigration of their citizens and subjects respectively from one country to the other for purposes of curiosity, trade or as permanent residents.

Chinese Treaty (p. 122).

On many occasions I have had the honor to urge upon the British Government the necessity of a modification of the laws of the British realm, in the case of subjects of Great Britain, who have become citizens of the United States under our naturalization laws. By the President's directions, also, I have, with much urgency, invited the British Government to enter into an equal treaty with the U. S. on that subject as a proceeding which is essential for the removal of discontents which, if suffered to continue, might involve the two nations in *reprisal* or *war*. Hitherto these proceedings have been unfruitful, although we have many friendly assurances of a favorable disposition of the British Government I further call your attention to the fact that a bill which has passed the House of Representatives is now engaging the attention of the Senate, the effect of which bill, if it shall become a law **, will be to require the President to make reprisals, in case of Judicial denials in Great Britain to *naturalized Americans*, of the rights which are *conceded by them to native American citizens*. You will be expected to read the resolution referred to, together with this instruction, to Her Majesty's principal Secretary of Foreign Affairs, and to give him a copy of these papers if he shall require it.

William H. Seward

*(in a letter to Mr. Moran, our Secretary
of Legation in London, June 22, 1868).*

Liberty is the natural condition of man, in which he can do as he pleases.

Despotism is the absolute control of one over all the rest.

In a *free state* all the citizens stand on a level, and every one can move at ease.

A *despotic state* forms a kind of pyramid in which every one has his place assigned to him, and where the upper classes stand upon the shoulders of the lower ones. It is an unnatural condition,

* See p. 103.

** It has become a law. S. p. 113.

in which the lower strata have a continual tendency to throwing off the burden unjustly charged upon them. Therefore it can only be kept in order by force: if the lower classes move, the whole edifice will tumble down.

To give the building a broader base, constitutions have been given to the people, which lead them to believe that they are keeping their respective places by their own and free will, whilst they were formerly driven to them by main force. The cement by which the edifice is held together is made up of bayonets and cannons, apparently provided for the defense of the country, but serving in reality for the support of the throne and for the satisfaction of the ambition of the potentate.

Two offsprings of despotism have been particularly obnoxious to the freedom and happiness of man: the attachment of the subjects of a monarch to the soil of the country where they were born, and their duty to serve in the armies of the latter.

Emigration and evasion of military duty, without the consent of government, were made punishable offences, although there was a time when princes did not blush at selling their impressed soldiers to foreign tyrants, to aid them in the suppression of their subjects struggling for liberty.

It is natural that, as tyrants assist each other in suppressing any attempt at liberty, free men should extend a helping hand to the oppressed.

Happily, when things looked worst in Europe, when the sun of liberty had apparently set behind the lofty castles of despotism and the melancholy ruins of ancient republics, and the people were oppressed by miserable tyrants and their mistresses and satellites, till they could stand it no more; then, a spark of liberty carried to America by the fugitives from tyranny, spread into a conflagration, which not only resulted in the separation of the colonies from the mother-country and in the erection of a large and safe asylum for the oppressed of all nations, but also threw its brands back to the old world, where it produced convulsions which, for awhile, promised great results, but which, after a few years of unprincipled anarchy, turned out into a military despotism. The son of the French Republic killed his mother for his own selfish purposes. Another attempt at liberty in later years was frustrated in the same manner. The little nephew proved a worthy disciple of his great uncle: after

destroying a neighboring republic and resettling one of the darkest tyrants on his throne, he satisfied his own ambition by devouring his own mother in a sauce of blood from his brothers, who rushed to her defence. And the French people, tired of the incapable Bourbons and of the uproar of revolutions, and giddy with the reflex of transient glory, which accompanied the name of the usurper, submitted to the military despotism, which has since been ruling, up to the present time, not only „la belle France“, but almost all the continent of Europe.

Also in the United States, the very cradle of liberty, the indestructible weed of tyranny had developed itself into a strong rampant vine, which twisted around the Great Republic, and threatened to destroy in its embraces the only safe refuge for the oppressed of all nations. In breaking their bonds of allegiance to their mother-country, the latter left to her former provinces a germ of discord which soon began to disturb the good feeling and the peace of the Union. A large section of the American nation could not, and would not, understand that in a democratic republic there must be liberty for *all*, and that, black or white, all human beings must have equal protection from the law. But

„So wie die Feuersbrunst zum Löschen leuchtet,
Hilft alles Böse selber sich vernichten.“

As a conflagration yields light to those who come to extinguish it, every evil thing will help to destroy itself. The petty tyrants of the South, impatient to see the power, which they had been wielding so long over the whole people, threatened by our noble Lincoln's election, to be wrested from them, madly attacked the Union, and, after a four years' sanguinary war, which cost the nation hundreds of thousands of lives, and involved it in heavy debts, Liberty was again victorious in America, and the stain of slavery, which soiled the starspangled banner, was washed out of it with the noble blood of those who sacrificed themselves in its protection.

For many years our Government had made efforts to see the citizenship of our naturalized citizens, and the right of emigration and change of allegiance of every man, acknowledged by the governments of foreign countries with which we were in friendly intercourse. All its efforts had been without result, and more than once serious difficulties had arisen on the subject of a citizen of ours being

claimed as a subject of a foreign power and impressed into military service, or otherwise deprived of his liberty.

Our domestic troubles being settled, and slavery abolished, the Government at Washington instructed its foreign ministers to urge upon the governments, to which they were accredited, the final recognition of the rights of American citizens of foreign birth, during the residence of the latter in their respective territories. The time was well chosen. Through our persevering and manful struggle, we had merited and received the respect of nations and kings. We had learned, also, to know and to use our strength. And the progress of liberal ideas, whose seed was sown in 1848, and the „growing good sense on the subject“ of foreign governments, made the task comparatively easy.

We have, now, naturalization treaties with all the German powers, and even with the Emperor of China, and we, the naturalized citizens of the United States, have particular cause for being grateful to the respective Governments and functionaries who removed a restraint upon the intercourse between friendly nations and the danger of serious difficulties arising from it.

Unfortunately a sad, and, I am afraid, for the next ten years irreparable, mistake has been made in the first of those treaties: the almost notorious 4th Article of the North German Treaty takes back with one hand what the 1st Article gives with the other, and, which is a great deal worse, it infringes as well upon the constitutional right of citizens who are *not* concerned in military matters at all, as upon those of persons whom the article was meant to hit.

The different interpretations of said article have here and there raised a doubt as to its real meaning. But whoever has read attentively what has been said on the subject in the foregoing documents and commentaries, cannot be uncertain that it really means what it says, viz. *that a native of North Germany, after being duly naturalized in the United States, on returning to the North German territory, shall be considered and treated as an American citizen during two years, and no longer.*

That such is the real meaning of the article, can be seen from the interpretation given by the North German authorities, pp. 9, 21, 23, 31, and 32; and from Mr. Bancroft's own letter to Mr. Seward, in which he says, p. 44, that; „The fourth article is intended to

prevent *insincerity in the transfer of allegiance*." It is true that Mr. Bancroft adds that „A German naturalized in America and returning to Germany for two years does not necessarily renounce his American citizenship; only he may be called upon to declare his purpose explicitly." But this is Mr. Bancroft's private opinion, and cannot be of any value, in face of the interpretations cited above. Besides, if the declaration of the returned citizen of his purpose were sufficient to counteract the regulation of Art. 4, the latter would not prevent insincerity. Mr. Sumner's letter to me strongly supports my opinion. He says, p. 89, „The clause you speak of was intended to guard against *fraudulent naturalization*, where for example, a German, who never intends to make America his home, becomes naturalized here for the purpose of avoiding his duties in his native land, and as we looked at the matter here, it seemed a salutary provision. The two years' residence is only *prima facie* evidence of an intention to remain, and may be rebutted by proof of the contrary." There is again a slight consolation in the last sentence; but it is again the private opinion of the Honorable Senator; and if it were that of the whole Senate, it would not be of much service to us here as long as the North German Government insists that, on the ground of Art. 4, „in any case, the government of the old country of the person in question *is entitled to take for granted a renunciation* of the naturalization acquired in the adopted country, if the person returned resides again longer than two years in his original country. *Then the claim of the protection of the new country is excluded*. And Count Bismarck himself says: „My opinion is that, *according to the sense of the treaty*, he who returns voluntarily to North Germany, places himself into the situation of an immigrant by his own and free will. If this volunteer immigrant is of an age which imposes military duty upon him, *the duty will devolve upon him, which is attached to the North German citizen of that age*." The reader will have observed that even *the loss of American citizenship* was distinctly spoken of in the discussions on the subject in the Diet. During an interview I had with Mr. Bancroft on the 7th of July, at Cannstadt, he defended the fourth article against my objections, as a measure against fraudulent naturalization, and admitted that a naturalized American citizen owing military duty to Prussia would not be protected by our government after residing two years in North Germany.

The improvements made in the Bavarian, and more so in the Baden treaty, may be considered as additional proofs of the correctness of my opinion, whilst they should be received with satisfaction by those who will come under their regulations.

As for the rest no one, that understands German and English, can read any thing different from either text of the treaty, than the Prussian interpretation. If a person means to say that a thing is white, he will surely not be expected to call it black.

„*En fait de la clarté de style*“, says an able French writer, „*il ne suffit pas qu'on puisse nous entendre: il faut qu'on ne puisse pas ne pas nous entendre.*“ In matters of style it is not sufficient that we can be understood: it is necessary that we cannot be misunderstood.

If this is laid down as a rule for epistolary correspondence, it becomes an inalterable law in political matters, which involve the comfort and happiness of thousands. — Talleyrand, with his notorious maxim, that „language was the means of concealing one's thoughts“, was a notorious old scamp, bare of honesty and fidelity.

I was assured by excellent authority that „Mr. Bancroft wanted to hit the Jews who went to America, to make money there, and then returned to Germany to stay without paying taxes to either country“. And, in fact, when I saw Mr. Bancroft — though I have neither the honor of belonging to the sons of Israel, nor did I go to America to make money — one of his first questions to the author of the Würzburg protest was: „*Where do you pay your taxes?*“ The tone in which the question was uttered, and the course of ideas in which it occurred, left no doubt but that the Honourable Envoy connected it with the validity of my certificate of citizenship.

The same view was taken by those of our consuls with whom I had occasion to confer upon the subject. When, alarmed at the danger threatening my American citizenship, and the safety of one of my sons, I hastened to the nearest U. S. consul, with whom I was acquainted, he said: „Oh, the article does not hit *you*; you have property left in America, and *you pay your taxes.*“ And when I expressed some uncertainty about my agent having paid my income tax, he very kindly offered to take the amount from me, and hand me a receipt for it. — The extracts from letters, which I have communicated pp. 92 to 96, show several instances of the admission, from native functionaries and members of Congress, that the naturalized

citizens were wronged by the fourth article. In fact, I have found no one that denied the fact, but Mr. Bancroft himself, who believes he is all right and who referred me for explanations to the transactions of the North German Diet and Council, or, as he styled them, the *informal protocol*, in which, however on receiving them, I found, as the reader has seen himself, nothing but the confirmation of our wrongs.

Some doubt has existed whether the fourth article was introduced by Mr. Bancroft; or Mr. König, the plenipotentiary on the other side. That doubt is removed by Mr. Bancroft's letter N° 41, to the State Department (s. p. 39), from which we see that our Envoy extraordinary — extraordinary indeed! — proposed, without *being asked by the Prussian plenipotentiary*, that: „A naturalized citizen returning and proving his intention by a continuous residence of, shall not be entitled to the interposition, respectively, of the United States or of North Germany.“ — Who can blame the Prussians if they take what is offered to them in such a liberal manner, and who can blame the Prussian privy councillor, if in making his draught of the treaty he made the best of our envoy's generosity at the expense of his fellow citizens? There was decidedly more prudence in the acceptance of the former than there was wisdom in the offer of the latter. If Mr. Bancroft had been entrusted with the interests of the North German Bund, he could scarcely have done better.

I have no doubt but Mr. Bancroft had fair and honest motives in introducing the article; but he forgot that he was the representative of the American people, that he had to take care of *our* interests, not of those of the Prussian Government. And he further forgot that, by signing that article, he committed an act, which no one before him had attempted, which was unconstitutional, consequently illegal — that of treating away the rights and allegiance of his fellow-citizens, *of admitting, for the first time, that an American citizen might forfeit his citizenship*, not by a heinous crime, but by a mere residence of more than two years in his native land!

And the Government and Senate of our republic approved and confirmed the act; the President went so far as to compliment his envoy for it; and the latter was proud of the compliment!

All this is very encouraging, indeed, to emigrants, of whom the immense extent of our country and its latent resources stand so much in need, and without the aid of whom we would scarcely succeed

in paying our national debt and restoring order in our Southern States. On account of a few hundred citizens *suspected* of insincerity, and a few paltry dollars lost in taxes, the fundamental law of the republic must be broken through, millions of adopted citizens must be insulted, the course of emigration impeded, and men, who have forsworn their former allegiance and taken the oath of fidelity to the United States, must put on the Prussian uniform and bear arms, if needs be, against their adopted country! — Very small policy indeed, to upset a constitutional principle, for a few soldiers and a few dollars!

In admitting the 4th article, Mr. Bancroft proved unequal to the noble task entrusted to him. Unfortunately he was not left by himself: Not sufficient that one horse, dizzied by the incense at a foreign court, and awed by the presence of a diplomatic genius, should stumble over a republican principle; a whole stable full of horses must stumble after him. We are certainly not much indebted to Government and the Senate for the fourth article, which, had not the House of Representatives come to our aid, and had not, after a long hesitation, the law of self-preservation induced the Senate, finally to adopt General Banks' bill, would have continued in full force all over Germany, and, serving as a precedent, probably also in Great Britain and other countries.

We shall not deny that some young men, as they are designated p. 54, may have gone to America to become naturalized and thereby avoid military duty at home. *But these cases must be entirely considered as exceptions*, and cannot give the least right to our legislators, and much less to members or bodies of our Government, to suspect whole classes, and cause them to suffer under the effect of such suspicion, with which they have nothing to do. Mr. Bancroft in his „letter to a friend“ says p. 52: „he (the American) is expected, of course, to observe the laws of the country where he chooses his residence, and if he dislikes those laws, he can return to the land of his adoption, or go to reside wherever he may please.“ Thus if the law of a country, by Mr. Bancroft's treaty, is: that an American must either leave it, before a two years' residence, or be impressed into military service, he will be obliged, to avoid the latter, to travel, with or without his family, every twenty three months, from one country to another, and, unless he possess money enough to live in America, become a kind of wandering Jew, or Christian, to retain the protection of the United States government.

It would be an interesting spectacle to see hundreds of errant American families hunted about under the law of their representative, whilst he is resting on his laurels at the court of Berlin in peace!

If a measure was necessary — which I believe it was not — to prevent „fraudulent“ naturalization, it ought to have been taken with proper caution, and sufficiently precise, to hit *only those who could be proved* to have become American citizens *in bad faith*. By putting their wisdom together, the two plenipotentiaries might have found a formula clear enough to express what they meant. To sentence a U. S. citizen, *on mere suspicion of mala fides*, to military slavery for the better part of his life, and to the loss of his rights of a citizen, would not only be the greatest injustice, but it would be a crime, if committed without the authorization of the law. And where is the law that empowers an Envoy, or the Government, or the Senate, or all these in a body, to deprive a citizen of his property, without trial by jury, promised to us by the Constitution? And is not the U. S. citizenship, and the rights and privileges it confers, a more valuable property than houses and money? And who is to be entrusted with the right of accusing of perjury a man that has forsworn his allegiance to his former potentate, served his five years' apprenticeship required by the law, and become duly naturalized? Who is to prove the truth of the accusation? The foreign government, or our envoy pro tem., or a U. S. consul? A man whose right it is to see his fate decided by the sentence of a judge and jury, when he places himself in the position of a trial, cannot be satisfied with depending on the opinion and good will of a functionary; he wants a *law*, clear and precise, to rely on. And a U. S. citizen must never be submitted to obtain from the *grace* of men, what he can claim as a *right*: liberty and the pursuit of happiness in whatever way he pleases.

The writer of the article in *Harper's Weekly*, which we have cited p. 108, calls it „foolish“ to restrict an American to a two years' residence, and we feel no inclination to contradict him. There is no man skilful enough to make shoes to fit every goose. A few irregularities will happen in spite of the wisest and most stringent laws. Why should millions be alarmed and placed into an awkward position, because of a few „insincere“ ones. We have traitors enough left at home. Let us unite our strength to bring these to reason, and do not create division among honest citizens, when unity is most

indispensable. The German citizens have closely adhered to the Union during our terrible civil war; thousands of them have sacrificed their limbs and lives for our lawful Government; the Germans, though a little hot-headed, and liking a glass of lagerbeer, are generally a quiet and industrious set of people. Why should they not be permitted to enjoy the blessings of liberty, after being naturalized, as undisturbedly as the natives? Why should the educated German be placed below the ignorant negro, and below the former rebel, who continues to be a traitor at heart? And, we ask again, *where is the law that allows you to make a difference between native and adopted citizens?* Such a law does not exist, and according to the voice of the people of the United States, as it has spoken through the House, *it will never be made.*

It is scarcely necessary to say much about the *second motive* for the introduction of the 4th article, that of compelling citizens abroad to pay their income tax. Unless the law made for the purpose hits *all* American citizens abroad, it is an injustice; and I know native Americans in good circumstances who have lived many years on the continent, without ever paying a cent of income tax, except on the property they hold in the United States; and yet they claim and receive the protection of our Government! I know of a lady, who has lived eighteen years in Germany and has a son in one of the German armies, and, when the Prussians were expected two years ago, she claimed and received, without hesitation, a certificate of protection from our consul against having soldiers quartered in her house, though she never paid any taxes at all, whilst the same favor was refused to naturalized citizens, under similar circumstances. Such a difference is odious and exciting in the highest degree.

I admit, that the citizen who claims the protection of his government, ought also to contribute to its support, provided the law require him to do so. But there are many American citizens living in Germany, because the enormous prices of every thing in America do not allow them to live there, who have less than a thousand dollars income, and, consequently, are exempted from paying an income tax. Others have their property in Germany and are taxed upon it by the authorities here. But all of them are hit by the 4th article, if paying taxes is to be a condition of receiving the protection of Government. There are, no doubt, a great many Germans, who go to America to make money, and then return to their homes

to live upon it, or to reënter some business; but most of them never become naturalized. Why should they, if our free and liberal institutions allow every foreigner to settle among us and to make as much money as he can, without becoming a citizen? I am sure the amount possibly lost to our Treasury, is amply repaid by the quarter of a million of Germans who flock every year to the United States, and who not only carry an immense sum of cash across the Ocean, but who, as I hinted before, assist in exploiting our resources and thus encrease our wealth and power. Truly, it is small policy to hunt after a few thousand dollars, when millions of dollars and half a million of strong arms are gained annually to make up for them.

Suppose a man makes money in America and lives upon it afterwards in Germany; do you believe he made that money without working for it; and do you consider his work worth nothing to the country of his adoption? What a man saves above his living and expenses is generally well earned and well deserved. The enormous prices of every thing, since the war, have compelled a great many German fathers of families to leave America, because they could compete no longer with the times, and, perhaps, being broken in health, required rest, whilst their children could be supported and their education attended to at a much cheaper rate in Germany. Has the American character changed so much lately, as to wish such men rather to be starved among us and their „seed begging their bread“, than to live decently abroad till circumstances permit them to return, or to send back their children with their minds stocked with useful knowledge?

There are, no doubt, a number of mean souls, perfectly satisfied with drawing their monies from the U. S., and not caring a straw, besides, for the republic. If you could hit *them exclusively*, we would not object. But as that seems impossible, you will have to be comforted, by the example of the sun „who shines equally bright upon the good and the bad“. Learn from him how to give up your shabby knownothing principles! —

Besides, we do not send ambassadors to foreign countries to collect taxes, particularly when there is no law or authority for levying taxes beyond the territory of the United States. A minister, or a consul, whose protection is invoked by one of his fellow-citizens, may be justified in asking for his passport, or his certificate of naturalization; but he has no business to ask him for his tax bill,

or to inquire: „where he pays his taxes?“ And the question is so much the more insolent, when the citizen calls on the functionary without asking for his assistance. Whilst we show due respect to our public men, we must be careful to prevent them from assuming power which they have not. The examples of the public functionaries in monarchical countries are contagious: a republican minister, by being fawned upon and excellencied at foreign courts, may be led after a while, to forget occasionally that he has to deal with fellow-citizens and members of the sovereign people of the United States, not with subjects, and it may be well for both, he should be reminded of the difference, whatever may be his ulterior merits. Have not some of our foreign ministers asked already for the permission to wear court liveries? If we are not jealous of our rights and privileges; if we are not ready, at every moment, to defend them against whomsoever; we are not worthy of being citizens of a free country.

The *third motive* for introducing the fourth article is that alleged by Baron von Völderndorff in his letter to me (p. 79). I admit that it may have been a motive for retaining said article in the Bavarian treaty. But here the article was entirely superfluous. If it was intended to express only that the returned citizen could not be prevented by the U.S. from giving up his American allegiance, after a two years' residence in Bavaria, it might have been distinctly said, and the contradiction between the article and the protocol, appended to the treaty, would have been avoided. Besides, we do not see why a two years' residence was required for the return of a former Bavarian to his old allegiance. The United States, claiming for the inhabitants of other countries the right of emigration and change of allegiance, cannot consistently refuse the same right to their own citizens. How long a person shall be required to live in Bavaria before the government of that state will grant him the right of citizenship, is decidedly a matter of that government, not of ours, or of international legislation. In the Baden treaty all these difficulties and objections are obviated. The more treaties Mr. Bancroft makes, the more we have occasion to be satisfied with them. No particulars have become known of the Hesse-Darmstadt and the Würtemberg treaties, and as they are not ratified, because Congress is not in session, we shall not see them before November. It is to be expected, however, that, being made after the passage of the law of July 25th, and with the ex-

perience of our plenipotentiary in treaty making, they will be as little objectionable as the Baden treaty. The best of all, however, is the treaty made and concluded by Mr. Seward and the Chinese ambassadors, which allows the right of emigration and change of allegiance, *without any restrictions*.

OUR SITUATION.

In Bavaria and Baden, *we are*, as far as I can see, *all right*. In Hussia and Würtemberg, after the assurances I have received, *I trust we are*. But in the North-German territory, notwithstanding the law of July 25th, we are, as far as it concerns Art. 4 of the treaty, *all wrong*.

The article says that an American citizen can be deprived, after two years' residence in the North-German territory, of his citizenship and the protection of his government. The Prussian authorities say this is the meaning of the article, whilst Mr. Bancroft is softening it down to something like the requirement of an „explicit declaration of purposes“ &c. &c., upon all of which no reliance can be placed. Our ministers and consuls are bound, by the law of 25th of July, to protect us; whilst Mr. Bancroft's treaty gives the North-German government rights over us which conflict with said law. The treaty is an international law, and as such, it is supreme, at least in North Germany, besides being made before the protection law. The Prussian government will adhere to the regulations of the treaty, and we shall stick to the law protecting us. What will our representatives in North Germany do? What is their duty? What can we reasonably expect from them and our government, and what from Prussia? And what shall we do to avoid getting into difficulty, or exposing our government to serious trouble?

Except the payment of taxes, the quartering of troops, and other charges, from which American citizens were, or ought to have been, exempted, the principal point is that of military duty exacted from those who stay longer than two years in the North-German territory. According to the interpretation of the 4th article by the North German government, a Northern German, on being deprived of the protection of the American government, will be holden to fulfil said duty to the extent that would „devolve upon a North-German

subject of his age". (S. p. 31). Our Government, having its hands tied by the treaty, has no right to interfere in his favor, and, unless he prefer leaving North Germany before the termination of the two years allowed him for an undisturbed residence, he will have to submit to the practice of the law of the state in which he resides.

If I am correctly informed, ten years absence from Prussia constitute a Prussian subject a foreigner: he has lost his nationality. The same is the case in the kingdom of Saxony, where a young man who emigrates before he is called upon to perform military duty, after an absence of ten years, loses his nationality and is no longer looked upon as a Saxon subject. (The same, of course, takes place with a person of maturer age.) Consequently he has neither rights to claim, as such, or duties to perform. I am perfectly well informed on that subject, and can produce documents by which the Saxon government has decided similar cases in the above manner. I do not know any thing about the law of other German states belonging to the North-German Confederation. Every one interested will have to make inquiry on the subject, through a lawyer, before he exposes himself to trouble. At all events, he has gained the two years allowed by the treaty, and has time enough to gather information. Before he makes preparations to return to North-Germany for a longer period, he will do well, however, to satisfy himself, whilst he is still in America, that he runs no risk of being dislodged, or impressed into service, after a two years' residence. Young men, who have been absent less than ten years, on the contrary, have no chance whatever, on their return, to escape the regulations of art. 4. The only safety offered to them is their expatriation by the law of the particular state to which they belong. They have, I think, the least cause of all of us, to complain of the severity of the new international law, because they are the only gainers by it, whilst others, who are hit by it, have done nothing to bring its disagreeable effects upon them. As it seems, however, that the North-German Government, in introducing the 4th article, had principally in mind to put a stop to practices of insincerity, we may expect that a mild practice will be allowed in other cases than those of military obligations, though the Prussian employés have the reputation of being particularly strict, and more than that, whenever they attend to the execution of administrative and other measures. Those, who cannot get satisfaction, will do best to leave the North-German territory

and retire to one of the South-German states, in which our treaties are more favorable to us, and where living is cheaper than in the North. At all events it will be well not to test our protection law in cases where it is in conflict with the treaty. The law compels all our foreign functionaries to protect us all; but what can they do against the letter of a treaty signed by our President, and ratified by our Senate?

It is true that every citizen can hold the Government responsible for any damage suffered under an unconstitutional measure taken by it; or any of our officers by whose neglect or fault he comes to injury. And the Court of Claims in Washington, as has been stated before (p. 105) will receive complaints against the United States. But what such a complaint will lead to is more than I can say. We have proposed, in our (Würzburg) Protest, to sue any of our officers for damages, „through whose fault or neglect any naturalized citizen of German birth may come to loss or injury.“ A very able Boston lawyer, with whom I had an opportunity of conversing upon the subject, in the cars in going to Stuttgart, first hesitated, but finally agreed that „we ought to try“. My counselor at law in Northampton writes the following: „I am much obliged to you for the „Protest“, and hope to see the pamphlet. I take much interest in the question involved, and think it one on which a change of opinion will take and is taking place. One thing I don't see how you can carry out *practically* — holding an officer personally responsible for damages resulting to a citizen abroad, when the Government has surrendered the right to the country in which the damage is suffered. You may *blame* the Government, or seek to correct the policy by agitation and demands, but can you get satisfaction of the officer, any more than the Government? Of course, he and the Government would be morally responsible, which, practically, does not amount to much.“

When I proposed the measure, I, of course, saw the difficulty. But if General Grant had been guided by the confidence of the Rebels in the strength of their position, or by the fears of his friends, he would never have taken Vicksburg. My motto has always been: *Wer will der kann!* And where there is not a way, we must make one. „*Aut veniam viam, aut faciam.*“ I think, in case of any occurrence, „we ought to try“. But, of course, we ought to associate for the purpose, not stand there like sheep to be shorn, looking on, each of us, till his turn comes of losing his fleece. I never saw

a man retaining his rights and property, who allowed them to be taken from him. But one man cannot do what a great many can, though he may give the impulse for action. We, the naturalized citizens living in Germany, should therefore form clubs, which again should be centralized for mutual support. A trifling contribution of a dollar or two per head annually would be sufficient to defray all expenses that might occur, inclusive of a cheap monthly, which should report on all the matters bearing on our rights, privileges and situation in general. We would, then, all know what we, now, have to guess; much damage would be prevented; vexations avoided; and even those, who wish to emigrate, might find useful information by which they would be guided under peculiar circumstances. There are German Societies in America, which do an immense deal of good; why should there not be American societies in Germany?

There is one step more to be done; which *may* lead to a change for the better, though I do not clearly see *how* it can. I refer to an application to the Court of Claims. I have not had time to do any more than I have done, hitherto, for our interests. But I shall take a step more in that line, being acquainted with one of the judges of that Court, whom I esteem highly. If a new edition of this little book be required, I shall report progress in it, and also give copies of the Hessian and Württemberg treaties, for which I can wait no longer at present.

Whatever may be our feeling with regard to the North-German treaty and its makers, the attitude which Congress has taken lately, and the manly and truly republican language, in which Mr. Seward has addressed the English government (S. p. 179), in defense of our Irish brethren, must satisfy us that, though a mistake has been made at our expense, the principles upon which our noble Republic is founded take deeper and deeper root, Liberty „is marching on“, and nothing will stop the progress of true civilization. But do not let us forget that we must have liberty and equal political rights for all, and that only fine trees make a fine forest. A republic without citizens imbued with generous republican principles, and adorned with republican virtues, is a sham democracy; and a state of anarchy, as it was instituted in the southern section of our country, as it exists there even now, after the severe lesson they have received, and as it is abetted by a large party of the North, can only lead to destruction and ruin. Where the law is not respected, there is

only one thing to restore order, which is despotism. Whatever may be the apparent neglect and the wrongs, the German-American citizens may have a reason to complain of, let us adhere to our legal Government, to Congress and the Union, and let us defend the Constitution of the United States with the last drop of our blood, remembering that America is the Asylum for all „down-trodden and oppressed“, flying to her for protection, that, to protect them and ourselves, we must be strong, and that strength lies in the lawful and quiet submission of the minority under the will of the majority and in the unity of our whole people resulting from it. Never let any one of us place his particular interests above those of our beloved country; but where the fate of the republic is to be decided, whether at the ballot box or in the battle, let us all be on the side of the law, of justice, of humanity and of liberty. I wish no German-American citizen would ever be found to vote for rebellion and anarchy, or for the ruin of the credit and the esteem of our adopted country.

Mr. Seward may safely defend our principles and institutions in energetic language.

United, we have no one to fear!

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